

# Agenda

# County of Inyo Planning Commission

Board of Supervisors Room  
Inyo County Administrative Center  
Independence, California

**LANIE SOMERS**  
**CAITLIN (KATE) J. MORLEY**  
**TODD VOGEL**  
**CALLIE PEEK**  
**SCOTT KEMP**

CATHREEN RICHARDS  
PAULA RIESEN  
MICHAEL ERRANTE  
LESLIE CHAPMAN  
CHRISTIAN MILOVICH

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

PLANNING DIRECTOR  
PROJECT COORDINATOR  
PUBLIC WORKS DIRECTOR  
COUNTY ADMINISTRATOR  
COUNTY COUNSEL

Inyo County Planning Commission  
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**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/89333419022?pwd=dE8zTmUrQjVTR3BDNWpkaUFhcjJYdz09>

You can also dial in by phone at 1-669-900-6833 Meeting Id: 893 3341 9022 and then enter Passcode: 427883. 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](mailto:inyoplanning@inyocounty.us)

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).

## February 23, 2022

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. **CONSIDERATION OF A RESOLUTION** - The Planning Commission to meet remotely pursuant to AB 361.
- Action Item** 5. **APPROVAL OF MINUTES** – Approval of minutes from the December 1, 2021 Planning Commission Meeting.
- Action Item/  
Public hearing** 6. **VARIANCE 2022-01/CASELL** - The applicant Aaron Cassell has applied for a variance to remodel an existing garage into a single family residence for a property zoned Rural Residential (RR) that is located at 1520 Indian Springs Drive in the community of Lone Pine. The side setback requirement is 20-feet and the applicant is asking for a 5’2” encroachment. This project is Exempt under CEQA.

**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**



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**AGENDA ITEM NO.:** 4 (Action Item)

**PLANNING COMMISSION MEETING DATE:** February 23, 2022

**SUBJECT:** Consideration of the adoption of a resolution regarding virtual meetings for the protection of public health pursuant to AB 361

**BACKGROUND/HISTORY:**

Since March 2020, legislative bodies in California have been permitted to meet virtually without following certain requirements of the Brown Act due to an executive order from Governor Newsom. That executive order expired on September 30, 2021, and in its place, the Governor has signed AB 361, which modifies the Brown Act in a manner to permit continued virtual meetings in certain circumstances.

**ANALYSIS/DISCUSSION:**

In order to meet virtually under AB 361, certain requirements must be met. These requirements are:

1. The Governor has declared a state of emergency;
2. Local officials have recommended social distancing recommendations or the legislative body itself makes a finding that meeting remotely is necessary for health reasons; and,
3. The legislative body makes a finding every 30-days that they have assessed the situation and still determine remote meetings to be necessary.

Currently, Inyo County meets the requirements for the Planning Commission to hold virtual meetings. There is a declared state of emergency at the state level related to COVID-19. Also, the health officer for Inyo County has recommended social distancing. A resolution is being presented today so that the Commission may consider continuing virtual meetings for Planning Commission meetings.

Attachments:

- Draft Resolution
- Memo from Dr. James Richardson

**RESOLUTION NO. 2022-02**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF INYO  
REGARDING THE NEED FOR CONTINUED VIRTUAL MEETINGS TO  
PROTECT PUBLIC HEALTH**

**WHEREAS**, the COVID-19 pandemic continues to threaten the health and safety of communities within Inyo County’s jurisdiction since its inception in March 2020; and

**WHEREAS**, Governor Newsom has declared a state of emergency related to the COVID-19 pandemic; and

**WHEREAS**, the Health Officer for Inyo County has recommended social distancing and continued virtual meetings as a means to limit the spread of COVID-19, particularly the highly contagious Delta variant. These recommendations are attached hereto as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the County of Inyo that:

1. The Commission has considered the circumstances of the state of emergency related to COVID-19 and declared by Governor Newsom.
2. The Commission finds that the above-mentioned state of emergency directly impacts the ability of the Planning Commission to meet safely in person because in person meetings, particularly with the public present, increase the likelihood that COVID-19 will be transmitted throughout the community.
3. Local officials—specifically the Health Officer of Inyo County—continue to recommend measures to promote social distancing.

**PASSED AND ADOPTED** this 23rd day of February, 2022 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Kate Morley  
Chairperson

ATTEST: \_\_\_\_\_  
Cathreen Richards, Planning Director

\_\_\_\_\_  
Paula Riesen, Secretary



*County of Inyo*

**HEALTH & HUMAN SERVICES DEPARTMENT**

*Public Health, Suite 203-C  
1360 N. Main Street, Bishop CA 93514  
TEL: (760) 873-7868 FAX: (760) 873-7800*

**Marilyn Mann, Director**  
*mmann@inyocounty.us*

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Date: September 23, 2021

To: Inyo County Local Agency Governing Bodies

From: Dr. James Richardson, Inyo County Public Health Officer

Re: Continued Recommendation Re Social Distancing and Remote Meetings

In order to help minimize the spread of COVID-19, I recommend that physical/social distancing measures continue to be practiced throughout our Inyo County communities, including at public meetings of the Board of Supervisors and other public agencies. Individuals continue to contract COVID-19 and spread the infection throughout our communities. Social distancing, masking, and vaccination are crucial mitigation measures to prevent the disease's spread. Remote public agency meetings allow for the participation of the community, agency staff, presenters, and board members in a safe environment, with no risk of contagion. As such, and since this disease negatively and directly impacts the ability of public agencies to conduct public meetings safely in person, it is my recommendation that local public agencies conduct their public meetings remotely.

This recommendation will remain in place until further notice.

Dr. James A. Richardson  
Inyo County Health Officer

# COUNTY OF INYO

## PLANNING COMMISSION

### MINUTES OF December 1, 2021 MEETING

**COMMISSIONERS:**

LANIE SOMERS  
CAITLIN (KATE) J. MORLEY  
TODD VOGEL  
CALLIE PEEK  
SCOTT KEMP

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

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**STAFF:**

CATHREEN RICHARDS  
CHRISTIAN MILOVICH  
PAULA RIESEN  
LESLIE CHAPMAN  
MIKE ERRANTE

PLANNING DIRECTOR  
COUNTY COUNSEL  
PROJECT COORDINATOR  
COUNTY ADMINISTRATOR  
PUBLIC WORKS DIRECTOR

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The Inyo County Planning Commission met in regular session on Wednesday, December 1, 2021, using Zoom for our meeting. Commissioner Morely opened the meeting at 10:02 a.m.  
These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

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**ITEM 1:**     **PLEDGE OF ALLEGIANCE** – All recited the Pledge of Allegiance at 10:01 a.m.

**ITEM 2:**     **ROLL CALL** - Commissioners: Caitlin Morley, Scott Kemp, and Callie Peek were present.

Staff present: Cathreen Richards, Planning Director; Paula Riesen, Project Coordinator; Grace Chuhla, Deputy County Counsel.

Staff absent: Leslie Chapman, 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 10:02 a.m.

With no one wishing to comment Chair Morley closed the public comment period at 10:03 a.m.

**ITEM 4:**     **CONSIDERATION OF A RESOLUTION** - The Planning Commission to meet remotely pursuant to AB 361.

Cathreen Richards, Planning Director explained how the resolution did not make it into the packet so she shared her screen everyone could see it. It was the same as last meeting. It is to continue at each meeting every month.

John Vallejo explained that a resolution is not technically required, although it is great to have a resolution but just the findings are what is needed, only the Board must have a majority vote.

Cathreen Richards went over the findings.

**MOTION:**     Commissioner Scott Kemp made a motion to pass adoption of the resolution regarding virtual meetings for the protection of the public health pursuant to AB361. Commissioner Callie Peek made the second.

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

The Motion passed 3-0 at 10:06 a.m.

**ITEM 5:**     **ZONE TEXT AMENDMENT-2021-01/INYO COUNTY OUTDOOR LIGHTING -**  
A draft outdoor lighting ordinance has been prepared for the Planning Commission's consideration of a recommendation to the Board of Supervisors for adoption.

Cathreen Richards, Planning Director gave the staff report. She also presented the Commission a copy of letter received by April Zrelak, that she had already emailed each of the Commissioners prior to the meeting for them to look at.

Commissioner Callie Peek explained that she had several questions to ask regarding the lighting. She has spoken to lot people in the community about this, there was not a public meeting in Big Pine, which is my area and part of Independence, I spoke to the Principal at the Big Pine School and he shared a lot of the same concerns where safety is a big concern and that is why everything is all lit up. She explained that she had gone to school there and every single Monday the question was which room would be damaged or vandalized, or whether we would get to go out the playground right away because people had partied on campus. The fencing has helped improve that but also the lighting. One thing when she spoke to the Principal of the school about was the Sheriffs would not be able to do patrol at the school because they needed two Sheriffs to do the patrol because it was not lit up enough. So my big concern is safety. We have such a large homeless population now in our area, we have people camping everywhere, if you own or manage any property you need to be able to light it up so you can access it safely at night. Whenever we go the ranch at night, not only do we have to worry about wild animals, we have to worry bears going through our yard, but we also have to worry about someone camping behind our buildings. I was wondering if the Sheriffs or the CHP were contacted about any of this.



Cathreen Richards, Planning Director said she would answer those questions one at a time. Schools and State facilities are not regulated by this ordinance, so we would actually, under the spirit of this ordinance ask them to reduce their lighting, but we can't enforce it on the school. You can still have lighting on your property we are just asking that it doesn't spill over into a neighbor's property, which is what we would call light trespass, or be beaming into space which we refer to as light pollution. So we are not telling or regulating to the point where you would have to turn your lights off at night, it's just to be more respectful by keeping lighting on the property it is supposed to be on. Then finally when we started this whole project to do this outdoor lighting ordinance a Sheriff was a part of the working group. We had a group of county employees which included someone from Public Works, from Transportation, from the Sheriff's office and then a couple of us planners. The Sheriff's understanding is that the lighting does not have to be really super bright to be safe.

Switch on, switch off type of security lights tend to work better because they tend to surprise people. Sometimes when there is a lot of light it actually makes it harder to see people, so they were non-committal one way or the other, but concerned about what we were proposing to do under the lighting ordinance. We did do safety research in regards to the specifics I just told you about - safety and lighting. We didn't feel we were causing safety issues with this ordinance, we did get quite a few comments regarding safety and security and so we tried to be sensitive to that as well.

Commissioner Callie Peek, so this project was pushed by the Dark Skies initiative is that correct?

Cathreen Richards, Planning Director answered I don't know if they actually pushed it they were certainly fully involved in it, they are super into it, they gave us a lot of help. They provided some displays and flyers for the public meetings. This was originally brought up by the Board, and then the dark skies group went forward with it.

Chair Kate Morley asked for more of a clarification, so if I am reading this right, trespass from residential light is limited to .5 foot candles from the property line? With regards to street lights the trespass is limited to 5 foot candle so that is a tenfold allowable increase?

Cathreen Richards, Planning Director said no. Street lights are actually exempt from the trespass, the example is relating to the light that is hitting the ground under the street light so five square feet basically on the ground.

Chair Kate Morley said okay so there is no limit trespass from street lights.

Cathreen Richards, Planning Director answered correct that is actually exempted, and that is one of the things that have been an issue of concern, and we keep getting comments on. It has been relayed to me that it is a liability issue and no one is comfortable tightening the amounts of street lighting any more than we already have.

Chair Morley opened the Public Comment Period at 10:35 a.m.

Commissioner Scott Kemp asked Chair Morley since we have so many people do we have a limit on time.

Chair Morley thanked Commissioner Kemp and stated yes she would like to remind everyone that they have 3 minutes or less.

April Zrelak was unable to get her Zoom to unmute so she typed to Planning Director, Cathreen Richards. Thank you and we recognize how difficult it is to change people's lifestyle practices.

Planning Director Richards thanked April for her understanding with the zoom issues.

Chair Morley asked if anyone else wanted to make a comment?

Chair Morley said seeing that there is no one else, and it looks like April has finished her comments lets close public comment at 10:42 a.m.

Chair Morley said one of the things she particularly likes about this ordinance is the approach to how the Planning Department is proposing to deal with existing noncompliance of structures in the sense that it is not an overnight everyone is out of compliance tomorrow if and when the ordinance is passed.

Commissioner Callie Peek stated that if you have a problem with a neighbor go talk to them. We already have enough rules and it is dark enough to see the skies, this is an unnecessary issue if you want to see stars drive 5 miles out of town.

Cathreen Richards, Planning Director, we have received multiple complaint of neighbors lights shining in their bedroom, or shining into their living rooms, or blinding people next door, and this was in response to, like I said, a multitude of complaints from people about that issue. So it isn't just a Dark Skies group wanting to be able to see the stars, it was not just in response to that. It was part of it but a lot of it had to do with nuisance lighting that we are hearing more and more about in the County.

Commissioner Callie Peek asked, don't we already have a lighting thing established?

Cathreen Richards, Planning Director, answered no.

Commissioner Callie Peek said she was under the impression we already had one.

Cathreen Richards, Planning Director said, so we have a policy in our General Plan that really cannot be implemented without it being in the County code. There are State regulations but that does make it very difficult for county staff to enforce.

Commissioner Callie Peek answered, and I guess that is another thing too, get along with your neighbors make friends with them and try and get them to turn their light off. I have

lots of neighbors, but because they are neighbors I get along with them and try to work with them, that's part of being an adult.

**MOTION:** Commissioner Scott Kemp said I hear what you are saying and I agree with what you say, however I think this is and probably will be a work in progress as we move along with this, I am perfectly fine with making a motion and adopting the attached Resolution, recommending that the Board of Supervisors consider this ZTA-2021-01 and make certain findings and adopt the proposed ordinance adding Chapter 18.74 to the Inyo County Code. Chair Morley made the second.

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

Chair Morley – Yes  
Commissioner Kemp – Yes  
Commissioner Peek – Abstain from voting

Chair Morley asked and again to make a point of order, where does that put the vote with just the three of us present?

Planning Director Richards deferred to County Counsel, John Vallejo.

County Counsel, John Vallejo let me look and see if there is nothing specific in regard to a majority of the board or board verse quorum, but we can move on and we will know the fate of this in a few moments.

Chair Morley we can revisit the vote after we figure out the legal logistics of the voting.

**ITEM 6:** **CONDITIONAL USE PERMIT-2021-08/VARIANCE-2021-06 - & VARIANCE-021-07 -ANDRACKI** - The applicant has applied for a CUP and two VAR to operate a commercial cannabis cultivation business located at 691 Desert Trail Way in the community of Charleston View.

Cathreen Richards, Planning Director gave the staff report.

Chair Morley asked, the setback, is it the encroachment is 250' to a 300' set back, is that due to the geography of the property or existing structures that are already within 300' of the property line, is it going to be repurposed and utilized? What are some of the reasons this is necessary?

Cathreen Richards, Planning Director answered all of those and a 10 acre parcel with a 300' set back does not leave much of anything. And, since the owner is already using the existing parcel area for farming cultivation, we are basically saying the variance is acceptable, and recommendable because what he is proposing to do is going onto what he is already doing. It will result in a 100' set back on two sides a 50' setback on the other two sides.

Chair Morley opened the Public Comment Period at 11:00 a.m.

Nicolas Dialando a new property owner in the area asked out of curiosity, have you guys visited the plan site? And is there any development on the site around that area? Does anyone do a site visit in the area of the project?

Cathreen Richards, Planning Director answered yes, a couple weeks ago and yes his property is developed in the manner in which it was described by me and in the staff report. There is a lot of vacant land around him. Unfortunately, for him there has also been an illegal grow directly to the south of his property as well.

Nicolas Dialando asked just to follow up that is an illegal grow is Cannabis as well?

Cathreen Richards, Planning Director answered yes.

Nicolas Dialando answered we have one of the lots down in the community and we are kind of new to this whole hearing thing we got in the mail and wanted to see what it was about.

Cathreen Richards, Planning Director thanked him for joining us.

Ms. Richards then asked Mr. Andracki if he wanted to comment.

Stephen Andracki wanted to take a minute and thank the commission and especially thank Director Richards who has been extremely helpful during this whole process. So we are converting a current organic farm into an alternative growth because Covid-19 has affected the business and the whole growing and produce team in the area. So this seems to be reasonable, we don't know how likely this will take off cause everything is changing especially in the cannabis market and it is a proposed fazed project and it will become a wonderful opportunity to exhibit all kinds of conservation methods including the electricity which is off grid solar provided. Also water conservancy and we are using aqua phonic production which increases water usage by 90% and then to use the area to provide a jobs and exemplary business opportunities. About the 50' encroachment, it is on the side where the illegal grow is and is full of trash from that grow. I am working right now on arranging a land swap so I can clean that area up, because the owners have not cleaned it up. If I can trade that property and cleanup that area then there would be a significant increase but I don't know about the easement but that is my ultimate plan.

With no one else wishing to speak, Chair Morley closed the public comment period at 11:04 a.m.

**MOTION:** Commissioner Callie Peek would like to make a motion, as staff recommendation to approve the Cup-2021-08, the Var-2021-06, and the Var-2021-07/Andracki with the findings and conditions that are in the staff report. Commissioner Scott Kemp made the second.

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

The Motion passed 3-0 at 11:05 a.m.

**ITEM 7:** **CONDITIONAL USE PERMIT-2021-06/THE TREE FARM** - The applicant has applied for a CUP for the cultivation of 8.5 acres of cannabis located at 800 Ekenberg Rd. in the community of Sandy Valley in southeast Inyo County.

Cathreen Richards, Planning Director gave staff report and added that several comments had been submitted and all had expressed concerns about illegal cannabis growing on the property.

She went on to say that luckily, I was able to get a hold of Nathan Reade the Inyo & Mono Agriculture Commissioner on short notice this morning at his office where he reviews cannabis applications and business licenses and processes complaints regarding illegal growing. So, I am going to ask Nate to unmute and see if he can go ahead and provide what he found when he went out to investigate those allegations of illegal cannabis growing.

Nate Reade, Inyo & Mono Agriculture Commissioner gave details that there had been a few complaints about illegal cannabis or actually hemp cultivation, was how it was presented to us on that parcel. So we went out around April 7, 2021 with the applicants of the CUP. They voluntarily let us go out on the site and look where we wanted to. There were a few hoop houses and greenhouses but we found no plants growing in there and in addition to that we didn't see any evidence of plants growing there any time recently. There was some weed coverage in the area, but nothing that had been dug around or disturbed. As far as I could tell there hadn't been any illegal grow out there. I did discuss with them how to apply for a license to cultivate cannabis and talked about the CUP process and that they were already in the middle of the CEQA, and the archeological studies. They did imply that they intended to apply, but they hadn't been growing anything at this time, and I can attest at that point there wasn't anything there and it didn't look like anything had been there within a few months at least. In addition to that we had spoken to the Sheriff's Department down in that area and had talked about some of the complaints so there was some communication there.

Cathreen Richards, Planning Director stated that she had also done a site visit and it looked abandon and nothing was growing there. There is a big cannabis grow right next to it, that may have been confusing.

Chair Morley asked if the site visits that you and Nate did were they spontaneous visits.

Cathreen Richards, Planning Director said that she just showed up at the site. Basically checked the perimeter to see if the site plan matched what they had provided in the application.

Nate Reade, Inyo & Mono Agriculture Commissioner said our process given that it was presented to us as hemp and not cannabis our concern. At that point it was that they to be aware that there was a CUP to grow hemp and additionally that they were registered in our County to cultivate hemp. So we followed our process of noticing the property owner on record and also we were able to coordinate with the Sheriff's Department down in that area. We were able to get a phone number for them and contact the property owner within about a week went down and took a look. There was no evidence that anything had been disturbed or anything cut down, there wasn't even irrigation established in some of those areas in the hoop houses and some were still being built. I don't think within a week anything had been moved from when they were noticed and when we did our visit.

Chair Morley thanked both for the explanation, it was very helpful. Another question Cathreen you may be able to answer. Is the lot adjacent to the property a legally permitted grow?

Cathreen Richards, Planning Director said there is now several permitted grows down in that area now, and there is one right next to them with just a small road in between them, so they are very close.

Chair Morley stated that there had been a few artifacts in that area but did not constitute making the noticed in the historical records. Could you talk a little bit more about what that means?

Cathreen Richards, said the Eastern Sierra UC Riverside keeps a collection of historic sightings records, basically. So if someone discovers anything of interest, it is recommended that they let them know where they are and the consultant gave them a number so they can be in that record. It doesn't necessarily mean that it has any repercussions for the applicant so they avoid those sites. It is not in the area where this may occur so they can easily avoid it, but there will be a record of that. It's is old tin can of various sorts laying around on their property.

Chair Morley opened the Public Comment Period at 11:23 a.m.

Mike Walsh was the first to speak. I own the land catty corner to the property I have been there 40 years. There has never been cantaloupe growing there, at one time there was about two acres of alfalfa growing there on that property. I have been here a long time and I know what is going on. His grow lights have been going on and he has probably processed about three times here. So I don't know how when you come here you don't find anything but that's either here nor there. I have watched him haul it out; he hires lots of druggies to work over there. He stated to me, that is all he hires so he can fire them at will and he doesn't have a problem not paying them. He is kind of a bad character. I have had him trespassing on my property, over here checking things out that I got. There is a police record of that. He said he will not help maintain the access road, I bought gravel to try and help with the dust. He is pretty verbally abusive, he just says stick it I am using the road and that's it. Thanks for the chance to voice my opinion.

Jennifer Schweiss, I submitted letters that I am assuming will be read out loud at this meeting. Please reconsider his application. I would like you to reconsider his use permit. Based upon the character of the person and the act of illegal activities that we know is on this property. In addition I have a petition signed by 8 individuals showing that neighbors do not want another cannabis farm in the area. I am respectfully requesting that the approval if not denied at least delayed until we can submit that petition to you guys to understand that the neighbors are not wanting this in their local community.

Steve Schweiss want to comment on the archeological aspect of it of Native Americans found very, very close in this area. The use of water for another cannabis farm, at some point the aquafer is going to get tapped. Individuals will have to start drilling their wells deeper do to water resources drying up. I feel that needs to be considered, additionally I feel it could be west of this area there is another cannabis farm out there. They keep tapping into these resources from my understanding these plants require more water than typical sod which is what is grown mostly in this area. So the overwatering and overabundance in this area is going to affect people's access to water in the traditional resources out in this area.

Nicholas Dilando I have a question how many cannabis farms are in operation in this area? More the Sandy Valley area.

Nate Reade, Inyo & Mono Agriculture Commissioner said there are currently in Sandy Valley two in operation. I am looking up right now and can get back to you on that.

Cathreen Richards, Planning Director said that number sounds about right for conditional use permits as well.

Nicholas Dilando asked and how many illegal grows are out there? I mean do you guys keep track of that?

Nate Reade, Inyo & Mono Agriculture Commissioner said we work with the Sheriff's Department, Code Enforcement, District Attorney's Office, and a number of other Departments, including Planning. We coordinate with other departments on the illegal Cannabis grows. The majority of work is the Sheriff's Department.

Jennifer Schweiss, asked if the phone lines are active because she knows there are elderly people trying to join in the zoom and cannot get in. I don't know if you are actually muting them, because they cannot raise their hands.

Commissioner Callie Peek said if it is a land line they have to hit \*6 to unmute themselves.

Chris Teutsch, I am the applicant. I would like to kind of address some of those concerns. I am working through business licensing, the Sheriffs we have been working with a regulatory body of Inyo County all the way through this process. The local community does not want another farm in the general area. There are only three of us

who live there, all three of us have applied and currently in the application process.

Nate Reade, Inyo & Mono Agriculture Commissioner now has the information regarding the licenses. At this point we have 19 licenses throughout Inyo County. In the 5G Zone which includes Sandy Valley, it appears we have 7 cultivation licenses, 2 of those are Potentially being revoked, 2 manufacturing licenses, 1 retail and 1 micro business.

Rosemary, my parents bought that property over 60 years ago, that property has never had cantaloupes on it. It has only had alfalfa. Also, there is supposed to be an Indian Burial on that property and that needs to be looked into. As far as the gentleman who bought the property, he is something else, he has done a lot of things that are not up to par. In regards to him not picking up his trash, it flies over the fence and we have to pick it up, me and my granddaughter have to go down and pick up the trash. He won't help on the road, he won't water the road to keep the dust down, he doesn't care anything about the dust.

Mike Walsh wanted to make another comment, he was looking through his notes and he had to drop his pump another 40' for water because of the grows. I wish you would reconsider this application, so we can deal with this.

Jennifer Schweiss asked if we do anything with air quality out there. Cause basically When he is grading the area, the dirt goes in the air.

Cathreen Richards, Planning Director answered if you feel there is a dust problem you can contact Great Basin Unified Air Pollution Control District. If you feel there is a dust problem during construction we can and a condition.

Jennifer Schweiss thanked the commission.

Chair Morley closed Public Comment at 11:42 a.m.

Commissioner Scott Kemp said he really appreciates all of their comments about the road I do understand about the trash cause my boys and I pick up trash about once a week. We can add to conditions of approval and in my eyes would want this cup to go through to have more eyes on him. The County would be on top of this a little bit more than if this CUP didn't go through, and Planning would be out there more to control site more.

Chair Kate Morley would echo Commissioner Kemp in the sense that the trash and dust is a legitimate complaint and would be open to adding more language to the CUP to make sure those concerns are met. With adding conditions we are adding more teeth to the enforcement down the line to make sure some of the concerns are addressed quickly.

Commissioner Peek wanted to have a point of clarification. So far he hasn't met any of those conditions yet? It will be after we approve the CUP he will be obligated if the CUP is approved, and if they are not complying we can revoke the permit.



meet

Cathreen Richards, Planning Director answered yes, and as Kate added if he does not the conditions we can revoke the permit based on that.

Commissioner Peek wanted to ask one more point of clarification. The CEQA has it happened yet?

Cathreen Richards, Planning Director answered yes. The Initial Study and Negative Declaration was put out to comment and submitted to the State. We primarily got comments from the California Department of Fish and Wildlife about potential habitat, so there are a lot of conditions regarding any possibility of the species wondering on to the property.

Commissioner Peek continued, my heart defiantly goes out the neighbors for having problems they have brought up, I know it is difficult because you do not get to choose your neighbors, but hopefully passing the CUP would allow for some more jurisdiction to happen that would give them the opportunity to mitigate some of these problems. I know possibly having endangered or threatened animals that is a huge deal on your property so you do have to follow the regulations there is no way to get around that. Approving the CUP will give more oversight and alleviate the problem.

**MOTION:** Commissioner Scott Kemp will make a motion to approve CUP -2021-06/Tree Farm with the findings and conditions in the staff report, but I would like to add that the applicant will help with the mitigation of the trash on the road and around his property and dust.

John Vallejo, County Counsel said we should be very specific about what we are requiring with the mitigation of road dust.

Cathreen Richards, Planning Director said I think a dust mitigation needs to be for his property. I don't think we can mitigate road dust that is shared by all of them, that's a bit of undue burden on one person, but we can say that the applicant can mitigate for all dust created by construction and cannabis cultivation activities during the time of the permit. We can also say the applicant shall provide appropriate receptacles to make sure waste does not leave his property.

Commissioner Peek made the second to the motion on CUP-2021-06/Tree Farm.

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

The motion passed 3-0 at 12:00 p.m.

**ITEM 8:** **HEARING – RADCLIFF MINE/BUSH MANAGEMENT VIOLATION OF CONDITIONAL USE PERMIT-2007-05/PRUETT/BALLARAT INC.** – The County will be seeking an order to revoke the Conditional Use Permit and require immediate closure of all portals and reclaim site.

Grace Chuchla, Stated she is County Counsel representing the Planning Department for this hearing. I can provide a summary and then some additional information since writing this staff report and this hearing. As for the procedure, we will call Ryan as a witness, and then she can provide that information and then turn it over to Mr. Will. He is representing Pruett/Ballarat Inc.

So on September 22, 2021, as Chair Kate Morley correctly stated, we previously received presented by the Planning Department requesting the revocation of this 2008 CUP, which was based on two violations. The first being that the applicant had installed two adits outside of the mining boundary. For those who are not entirely familiar with mining terminology, it is the hole used to access the minerals and materials. Mr. Pruett installed two adits outside his permitted mining boundary adit one and adit six. And additionally, since approximately 2016, there has been no mining occurring at the site. The CUP requires that within 90 days of the mining activity ceasing, all adits are to be closed regardless of whether they are or not within your boundaries. The Planning Department did not choose to bring an enforced action based on the two violations immediately. Although mining had stopped, there had been many proposals by the previous operator Charlie McLaughlin to reinvigorate this mine. The Planning Department didn't want to enforce a complete closure when there was potential for this mine to contribute to the economy in the South Eastern section of the County and be a functional mine. Additionally, it was Charlie McLaughlin who brought the adit location discrepancy to the County's attention in June of 2020. Of course, the County did not bring the hammer down on Mr. McLaughlin's head, given that he had brought this to our attention; we didn't feel this was fair. So in following up on the incorrectly placed adits we sat down with him and BLM since these two adits are located on their land and attempted to figure out an agreeable solution that would not penalize Mr. McLaughlin for raising the issue. Everyone agreed that the easiest way would be simply to get rid of the adits. They are not currently being used and the County, BLM, and Bush decided on closure. The closure had been the plan since about June of 2020. However, as of September 2021, which was the last time this CUP came before your commission, there had been no action to close the adits. On the day of the September 22 hearing, staff and I spoke to Mr. Will and he agreed Bush Management would get those adits closed, and close public access, to the remaining adits 2, 3, 4, 5 before the December hearing. Again it sounded like a great solution because the County does not want to revoke anyone. Still, we need to ensure public safety. At this point I would like to call Ryan Standridge as a witness and ask her some questions about the inspection as it is not summarized in the staff report.

John Vallejo, County Counsel, said we should officially open the public hearing and take evidence at that point.

Chair Morley opened the public hearing. So let's start with evidence.

Grace Chuchla called Ryan Standridge as the County's first witness and asked John Vallejo if Ryan needed to be sworn in.

John Vallejo, County Counsel, answered yes, and swore Ryan Standridge in as a witness.

Grace Chuchla thanked Ryan for being here today, please tell the Commission what your job is here today, with title please.

Ryan Standridge introduced herself as the SMARA Coordinator, Associate Planner for Inyo County. I enforce the compliance of the Surface Mining and Reclamation Act as the lead agency under the Public Resource Code. I review conditional use permits, reclamation plans, administrative documents and I go to each mine to inspect.

Grace Chuchla asked if Ryan was familiar with Radcliff Mine.

Ryan Standridge answered, I am.

Grace Chuchla asked when was the last time you had been to the Radcliff Mine.

Ryan Standridge answered, November 29, 2021.

Grace Chuchla asked what was the purpose of your visit on November 29, 2021?

Ryan Standridge answered, to access the compliance of the of the September 22, 2021 agreement with Bush Management to close portals 1 and 6 and eliminate the public access of portals 2, 3, 4, 5.

Grace Chuchla what did you observe at the mine on November 29<sup>th</sup>?

Ryan Standridge answered, on November 29. There was no sign of progress or signs of mobilization of equipment. The site looked exactly the same, as the inspection of October 21, 2021 and on March 30<sup>th</sup>.

Grace Chuchla asked have you been working with the representative of Bush Management between September 22 until today regarding the closure of these adits?

Ryan Standridge answered, yes I have.

Grace Chuchla can you tell us about the interactions?

Ryan Standridge answered, mostly phone calls and some emails and corresponding with potential operators. The County has spent a tremendous amount of time with Bush Management, we worked with them for the last year and a half. We have helped them in the bidding process after they found out that Mr. Clair would not be able to assist them. We provided the BLM closure plans to two additional operators who showed interest in trying and assisting Bush Management in hiring a contractor. I rearranged my schedule trying to meet with Radcliff and their potential contractor on October 21 when that fell through and nobody could attend. We just made it our annual inspection, and then we met on

November 16 through Zoom with Valley Wide Construction, Robbie Barker, Mr. Will, Grace Chuchla and I. We went over the September agreement and again reiterated it was important to close 1 and 6 and eliminate the public access to 2, 3, 4, 5, and then we discussed additional work to be completed as Mr. Will Blair would like to have done since he will have a contractor up there. Also, we told them we would be scheduling an inspection on November 29 to assess their progress.

Grace Chuchla do you know if Bush has hired a contractor?

Ryan Standridge answered, yes. I heard from Robbie Barker yesterday that they signed the contract yesterday.

Grace Chuchla and how much time do you estimate to take the time to complete the full closer of adits 1 and 6 and preventing public access to adits 2, 3, 4, 5?

Ryan Standridge answered; in my experience with the Radcliff site the roads are quite steep and in need of repair so I would access at least a week's worth of work and time to repair the roads, to get the equipment up there to close the portals, and for 1 and 6, I would say about a week to a week and a half for each portal to be closed and on depending on what he does to close 2, 3, 4, 5 and fences them off so people cannot access, or just fill it so there is no access.

Grace Chuchla thanks Ryan I have no further questions at this time.

Blair Will then spoke, beginning with good afternoon everybody thank you for your time meeting with us here today. I do not want to conduct this as an adversarial meeting. I don't think it is useful to do this as a straight laced legal meeting. I do that a lot in another life that I lead, where I have another hat on, I don't want to do that here. What I would suggest, if you don't mind I don't want to cross examine Ryan. She has been super helpful. She is correct. She has gone above and beyond in many regards, I am grateful for her assistance and time. I thank her for all the efforts she has made. I would like to make some comments in support of my client and the activity taken to reach the compliance goals that we share. If that is okay with the commission, I will propose presenting that way.

John Vallejo, County Counsel, asked if he intends to introduce any new evidence or are we just having a discussion?

Blair Will, Defense Attorney, replied he could provide a copy of the executed contract to Valley Wide Construction if that would be useful to everybody? I am aware of its terms, and I can summarize them in a way which I think will be more useful.

John Vallejo, County Counsel, announced it is up to the commission on how they accept the evidence. But it might be helpful to email a copy and summarize just by discussing what is in the contract.

Blair Will, responded okay so just let me say a couple of things. I want to curtail some of the scope of the conversation in some ways. Number one, I represent Bush Management, the successor to Pruett Ballarat Inc., or Dave Pruett. My client acquired this mine back in September of 2018. The existing conditions were more or less similar to when Bush purchased it in 2018. So what my client has done was spend a lot of energy doing preliminary site assessments, just doing minimal site adjustments, core sampling, and other things that do not pertain to mining actives per say but are what is needed to start mining on site. During that process, we did survey's, Ariel surveys and a lot of mapping relating to the CUP condition. It was in that process that my client became aware that the existing adits 1 and 6 which were referred to by Grace, and installed by the previous operator were not in fact inside the current boundary area. That discovery was roughly in May of 2020 so I just kind of want to strain through the scope of understanding here that it is Bush Management has not been ignoring this for years and years. Yes, we have obligations, and we intend to comply with these obligations and we will do the things that deem necessary to get into compliance. I want to remind the commission that the period of time in which my client has been trying to bring this site into compliance is significantly more limited than the longer term history of the site. We determined by very accurate surveys the portals put in by the other operator, which we were aware of when we initially viewed the site. The adits are 100 to 150 feet outside of the boundary. We notified the County when we found this discovery and started a process with the County and BLM to figure out what was the best situation in terms of reconciling those sites, which were to close those portals permanently. If we decide to put in portals in the future, we will do so with subsequent proper permitting, which we would receive from the County. We went through a process of wildlife reviews and bat eradication and obtained approval from BLM to close the portals in July of 2021. We are here we are in December with a short amount of time. We kind of thought in the back of our minds, based on the conversations we had in September of this year, that we had roughly 90 days to figure out how we were going to achieve a closure plan in some of the things I have discussed with Ryan and Grace about things to do on site. Yes, we are here on December 1 and it has not been 90 days. We have been trying to get this BLM closure plan implemented diligently and so many other things that the County has indicated they would like to have done. I have to give kudos to Ryan for finding Valley Wide Construction, who were willing to do it, and Robbie Barker was the only one willing to take this work. We had talked about the steep roads and heavy equipment that needed to be moved, there is a road grader, we are still not sure how we are going to get that out. We are committed to doing it, but it will take some significant effort on Robbie's part and expense on my client's part. The current agreement is that they will go up there and remove all the debris and close adits 1 and 6 permanently pursuant to BLM approved plan and the County. I believe adits are going to be backfilled. The cost to my client is over 200,000dollars to do that. We are committed to do that, we have already provided funds to Valley Wide to proceed with the closure plan. Mr. Barker's assessment should take up to 4 weeks because of the heavy equipment used and will roughly be finished by the end of the year. I don't have the contract at my fingertips, but I am happy to forward that to Ryan and Cathreen. So, I am asking the commission to give us more time to obtain the requirements. I acknowledge it has taken time for us to achieve that. We are working in an interesting environment regarding the availability of contractors that want to work now. We have been serious about looking at the closure plan from BLM, which has been a period of six months. I have used the last two or three months to try and

figure out who would respond to the RFP and be able to execute a contract and believe that it is someone who can do it. To Ryan's credit, she introduced us to Valley Wide Construction, who are going to do it. We have an executed contract we will move forward probably this following Monday, and they think they will be done in 4 weeks. So based upon that, I would ask the commission to hold off from taking any action on the revocation and give us more time to circle back and get this done. I would also like to point out that was in September the financial assurances came out and we have resolved that. We are trying to do a lot of corrections some of it is old. We are trying to be good stewards of the land and comply.

Chair Morley asked Ryan Standridge, Associate Planner, how long have you been in your position and how many other mines do you have and worked with?

Ryan Standridge, Associate Planner answered, I have been in this position for about two years. I have 80 active mines; most are DG Pits for grading construction and road projects with Caltrans and DWP. We have cinder and pumice, we have many active mines.

Chair Morley asked Ryan, how many of them are you facing similar challenges with what I would call pretty egregious current non-compliance. I am trying to get a sense if this happens fairly regularly or if this is a particularly noteworthy case?

Ryan Standridge, , answered it depends on the projects. There are a few projects out there where we have had issues. We have been working with them actively out of the Bishop area for the almost two years I have been here. We hit challenges all the time, and we work through them. That is part of what we do, but mostly things are fixed quickly. Where unfortunately, with this one, that is not the case. First it was the bond, now it's this, and these things just keep happening on it. So again, this is a unique creature.

Chair Morley requested confirmation from Ryan regarding the staff report mentioning the closure of the adits once a mine is no longer actively functional. Regardless of the location of the adits there is a 90-day requirement for sealing it off in some form. Should closure take place within 90 days?

Ryan answered, yes, typically within 90 days of underground mining being closed, it is required by MSHA. Then we require it with conditions on our permits. We have two separate conditions that we address, saying that closures shall be done. We get that issues do come up, we understand that, and we need to keep in mind that, more than anything, public safety.

Chair Morley so setting aside it's on BLM land, setting aside some of the construction delays, etc., etc., that have befallen the world in the last year or two from September 2018 in timeline, would it seem like in December 2018 would have been that required time period then the three months? For a non-operational mine. So by the calendar December 2018 the initial deadline for sealing off the adit. Is that accurate? To be in compliance?

Ryan Standridge, Associate Planner, answered, to be compliant we have to verify everything with MSHW, but typically yes.

Blair Will, Defense Attorney, may I reply to the question?

Chair Morley, agreed.

Blair Will, stated okay there are actually fairly technical questions to respect constitute for an active and idle mine. Again my client acquired the property in December 2018 from a bankruptcy sale, and so the technical definition in the statute says in relation to the production from one year to the next over 90% of acquiring your daily production. So, it is sort of difficult to know what the annual production had been prior to that. I want to quickly make a point of this as a matter of precision. We are going to close those portals. We are doing that for a variety of reasons. This issue of the idle mine, I think is a little more technical than was there inactivity? But other things were going on that related to the operations. I have been a mining attorney for over 20 years and there are a lot of mines in California that have some kind of historical origins where they have had long stretches of inactivity and the office of mine reclamation tries to keep an eye on that and the County is the lead agency. We have had two peripheral meetings about how this site can plan under SMARA and other things. I have made that a secondary priority that we have agreed to close them. So we can talk about the mine. I get it we don't want anyone to fall in the hole out there and 1 and 6 are our highest priority. They are closed. They have steel entrances and screens. I understand that there are instances that the historical interest at this site which is apparently accessed by recreational people. I appreciate Ryan's interest in having that done. We inherited a mine site which had very spotty compliance in the past and we have tried to slowly get up to speed with that, because we didn't even know that the portals were outside the property boundaries until May of 2020 and how to comply until July of 2021. I would also point out that the way Ryan is very diverse construction pits barrow pits, all the way down to the Briggs Mine which might be the largest open pit mine in the State of California which is sitting there with very unstable conditions of non-compliance issues. So, Ryan has got a lot of ground to cover, I didn't realize there were 80 sites to cover, that is a lot of sites and she is trying to stay on top of all of that, so I get it. But, we are trying to figure out one step at a time, what we need to do to be in compliance. I do want to point out it has not been a long time out of compliance. Mr. MacLaughlin, I don't know what he said in earlier conversations with the County, but I remember Ryan coming into the position at the County and we are trying to comply we are very close about 30 to 60 days to complete, and we will come through other compliance issues and we are committed to do that.

Commissioner Callie Peek stated it sounds like the prior owners were bankrupt, so they probably could not afford to close them. And the new owners couldn't pass it up.

Blair Will, said we went into it with our eyes wide open. We knew the prior operator had been undercapitalized and that there was going to be problems with it. Bush Management also acquired the Keystone Mine that is entirely on BLM property so there were some distractions. It went through a full blown NEPA process, in 2018 to 2019 timeframe. Then

we pivoted to Radcliff, trying to get it straightened out first. But when we bought the property, we were aware of their compliance issues there that needed to be taken care of.

Commissioner Callie Peek then asked Ryan do you feel they are making progress in the right direction? Or, because of this hearing, they have decided to make some progress?

Ryan Standridge, Associate Planner answered, there has been progress it is just extremely slow.

Blair Will, if I could just follow up on that point. We have done survey work, we have done site work, we have had a mining engineer up there several times in the last year or so we did the exclusion project for the bat lady to go up there, we have gone through consultants at BLM, we are trying to make progress, I understand that Ryan would like this done faster, so would I, but we are trying. The process of staying in compliance people tend to procrastinate is a trait of human nature. I don't begrudge any of this process and I am grateful for Ryan and her help with this process.

Chair Morley had a question on the timing of the contract very recently signed with Valley Wide Construction. As I look back through some of these emails it looks like throughout October and early November and seeing correspondence with something from the County, that Ryan and Grace were reiterating the very important deadlines that were coming up fast so you need to get this done within the appropriate amount of time and be resolved ultimately we were all hoping for, and yet the contract was only signed a day or two ago? I am wondering what that delay was? Particularly when it seems to be very clear that there was urgency that the County has demonstrated? You have got a deadline it needs to be met.

Blair Will, said it's a unique situation, it's a challenging logistical situation. The mine is 12 miles up desert canyon, east of Ballarat, which is not a place to begin with. It's an hour from Lone Pine so way out to the east, almost to the Nevada line. When I talked to a number of excavators, we were going to use Doug Clair as a matter of fact he used to own the mine. He had a heart attack, and was recovering from heart surgery, and then when I hooked up with Valley Wide. People were like what are you really talking about? Well, there is a bunch of steel, a road grater halfway up the mountain and holes that need to be filled that don't have roads. They requested to see it, and Robbie had knee surgery and couldn't make it up, it just kept going on and on. Not trying to make excuses, but you asked questions specifically about the delay. Then we went through a process with Robbie to figure out how this could be done, and what kind of equipment he would need. If his sub-contractor could be leasing some other equipment from another place, and it is very hard to get equipment now, with off-road forklifts, there was a lot to figure out. We finally got it hashed out, working towards this deadline.

Chair Morley opened the Public Comment Period at 12:44 p.m.

With no one wishing to speak, Chair Kate Morley closed Public Comment at 12:45 p.m.



Grace Chuchla, Attorney representing Planning Department, started with I think the County recognizes that Bush Management had made significant progress in the past few days. It seems that they are poised and on the brink of getting the work done required by the September 22, 2021 agreement. However, for that reason, it kind of pains me what I have to say next. This has been dragging out for a long time, if we go with the timeline Mr. Will was providing, mid-July of this year was when the BLM closure was. The entire year before that was when the problem first came to light. So the conversation he was having with Valley Wide, I think he mentioned in the last two weeks, is a valuable conversation. We commend Bush for having it, but they should not have been happening in the last two weeks. They should have been happening 6 months ago after BLM approved the closure plan. Or at least they should have been happening after September 23, 2021 the day after the hearing when Bush had a tight timeline and really knew they had to get this done or there was going to be another hearing. We really would like to be able to not revoke their CUP, but unfortunately, I feel it is my duty to make arguments to protect the time of the Planning Department staff. From September to today, Ryan and Cathreen have invested a huge amount of time in continuing this extremely protracted work that should not require two hearings at Planning Commission to ensure this would happen. While we would like to give them more time, the Planning Department cannot afford to task Ryan with finding a contractor to do the work, or task Ryan with continuing to stay on top of this. Should the Commission choose to vote to revoke the CUP because the Planning Department requests that. I think it is important to keep two things in mind. First, if the CUP is revoked, Bush will still be obligated to do this work. This doesn't mean all work will cease. Second, Bush is welcome to come and reapply for a new CUP. Losing your CUP does not mean you lose your CUP forever. It does mean that you have to go through some leg work to get a new one. Still, at this point I think that is what the Planning Department has to ask for because it is a matter of preserving the Planning Departments' resources. The department needs some finality here. The department appreciates all the work that Bush has done, we don't want to minimize it, but it is unfortunate at this point, too little, too late. There were firm deadlines the deadlines were not met, so the Planning Department still needs to request the revocation of this CUP.

Chair Morley thanked Grace Chuchla for her closing arguments and asked Mr. Will if her had Closing arguments.

I was on the phone with Mr. Clair before and after the September 22 meeting and I had conversations at least a dozen times. I had every intention of him doing the closures but he ended up having a heart attack, and having heart surgery. It is a very tough time to obtain construction services. We understood we would have at least another week before this hearing was originally scheduled for December 8. We have done as much as we can to get to where we could have somebody come up and do the work. The work is going to be difficult. It will be technically demanding, and I spoke to at least six engineering companies that said we have reviewed your RFP and are not interested. We have easier jobs to do and make more money. So it was a difficult thing to do, and we tried to do this as quickly as we could. The 90 days that we had in mind of the hearing and that was tight, we hoped to achieve it. It was a tough process but I spent a lot of time and effort to try and get those excavation companies to do the work. With respect to the County time, I fully acknowledge that Ryan and Cathreen have been very helpful. I would also point out that we did have an annual inspection in

November and the County is the lead SMARA agency so that's part of their purview, I do appreciate Ryan and all the help she has given us. I would just say again that the issue with the closing of the adits, I think somebody referenced that Mr. MacLaughlin raised the issue and was not involved until July 2021. There was much back and forth in that, like how we would do it? Were we going to bring the adits inside the permitted area? Are they going to stay outside the permitted area? Does SMARA apply? Does SMARA not apply with federal land we had a lot of conversations about that. I do think that there have been diligent efforts on the part of my client. Now with Mr. McLaughlin's departure in November 2020 things got lost in the translation, but since then, we have tried to be very forthright and diligent in our efforts. So as a consequence of that, I am asking the commission to deny the revocation action or grant a certain additional time to achieve the closure. I really don't want to go there but we do have certain things going of the resolution that are probably not strictly required of us by SMARA. We are trying to do that as a show of good faith. Again I ask that you deny the revocation or give us a reasonable amount of time to come back with completed amount of time for the closer action as stated in the September 22 meeting that has set forth in that contract that we have with Valley Wide.

Chair Morley closed the evidence phase of this hearing and opening up additional commissioner discussion.

Chair Morley started with I am disheartened that we are here because I was really hoping that this would be addressed, particularly when we gave a continuation. The initial hearing gave plenty of time to address these concerns. I already see a pattern. There has already been an extra chance to get things in order.

Blair Will, Defense Attorney, stated that it had actually only been 60 days, but I understand your point.

Chair Morley continued I will certainly acknowledge that on the calendar, we are one week before the normally scheduled meeting of December 8. Frankly, since the contract was just signed yesterday and we heard it will be a minimum of four weeks and I have not yet seen the timeline that has been adhered to yet, I am not confident that we are denying Bush the opportunity to finish and get this done within a week. I don't think it is practical or feasible to get this done from the pattern I am seeing. I certainly acknowledge the difficult situation, the very remote site. I think it is true about the mine and the burden of the mine to get the work done as opposed to shifting the burden to the public. What I see with the environmental concerns and public safety concerns, in my mind it is a real public health issue. We have a potentially dangerous mine to the public and poses environmental issues because it is on BLM land. Public land should be addressed with priority, and I have not seen that given the evidence I have heard today. With all of that said I am inclined to vote to revoke the permit. I am not confident that the outcome would change, and I am not comfortable with where it sits now, and I haven't heard anything now that things will be different moving forward, and I think we will continue to have challenges, and I don't want the public to pay for that.

Commissioner Callie Peek agreed with Kate. I agree with Kate to revoke the conditional use permit so you guys can get the holes taken care of and get your ducks in a row before moving

forward with the mine. If we revoke the permit you still need to get the work done for the adits, but then this will give you a chance to get your ducks in a row when it comes time to move forward. That way, we are not continuing to stretch our resources.

Commissioner Scott Kemp said I wasn't at the September meeting I apologize. However, that would not influence how my vote would be today. I said it last month and I will say it again there are timelines and it is difficult set a precedence where you allow people to not meet the timeline. I appreciate all of your comments and your positive comments towards the department and how helpful they have been. They are great they work very hard to help everyone, but I would follow my Commissioners as well on this one.

**MOTION:** Commissioner Scott Kemp made a motion that finding Bush Management is in violation violation Of the 2008 CUP and revoke the CUP based on the findings in the staff report. Commissioner Callie Peek made the second.

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

The motion passed 3-0 all approved to revoke.

Blair Will, said okay for purposes of appeal to the Board of Supervisors under the zoning code is this todays date for the decision or is there going to be a written decision coming?

Cathreen Richards, Planning Director answered today is the date of decision I believe.

Blair Will, Defense Attorney, is you going to send me a written notice of that?

Cathreen Richards, Planning Director answered yes you will get a notice of decision on your hearing. You have a 15 day period to appeal to the Board of Supervisors and that can be based on the date of decision, you don't have to wait for a letter.

John Vallejo, County Counsel, asked Mr. Will if he had the contact information to the Board Clerk's office? Ms. Darcy Ellis.

Blair Will, Defense Attorney, said he doesn't but he can get is sorted out, I have talked to her in the past.

### **COMMISSIONERS' REPORT/COMMENTS** –

Commissioner Callie Peek wants to say thank you for all of your really hard work put into these meetings. The reason I abstained from the first vote was everyone I spoke to was vote against it, if I am supposed to support my constituents I could not with a clear conscious yes, and I understand where you are coming from with it, so ya I do appreciate all of your hard work.

Cathreen Richards, Planning Director clarified you are the Planning Commissioner and you

Don't have to explain yourself, but I really do appreciate that, Thank you.

Commissioner Callie Peek said she just didn't want to seem submissive with all the hard work I know you put into it.

### **DIRECTOR'S REPORT –**

Planning Director, Cathreen Richards said all she had to report on is scheduling. So our next regularly scheduled meeting should be on January 26<sup>th</sup>, 2021. We do need to have another special meeting so that we can continue to have our virtual meetings. So, it will be December 29, 2021. I know that is right in the middle of the holiday week but at least that would get us to January 1<sup>st</sup> and then the regularly scheduled January 26, 2021 meeting. If folks can be there it is probably only going to be about 5 minutes, we can schedule it earlier so it is right in the beginning of the day and get it over with if that works for folks, but I think we should look at December 29, 2021 for the meeting.

Chair Morley said that is the beauty of zoom she can join us from Colorado.

Commissioner Callie Peek said she will set up a bunch of reminders.

Cathreen Richards, Planning Director, asked if Callie is getting the reminders for the meetings and the link for the meetings.

Commissioner Callie Peek said she is getting them they are just getting buried in her email.

Cathreen Richards, Planning Director, said she will check with the other commissioners and see if the December 29<sup>th</sup> meeting will be alright with them, and if not then she will send out another possible date. Does the earlier time work for everyone? I know 10:00 a.m. is in the middle of the morning.

Commissioner Scott Kemp said yes the earlier the better for him.

Cathreen Richards, Planning Director, asked if 8:00 a.m. would be okay.

Chair Morley and Commissioner Peek both agreed 8:00 a.m. would be great.

Cathreen Richards, Planning Director, said then I will schedule the meeting on December 29, 2021 at 8:00 a.m. for a short meeting.

### **ADJOURNMENT –**

Commissioner Scott Kemp made a motion to adjourn the meeting at 1:06 p.m.  
Commissioner Callie Peek made the second.

Chair Kate Morley said we had a motion and a second and we are officially adjourned.  
We will see you December 29, 2021 at 8:00 a.m.

Prepared by:  
Paula Riesen  
Inyo County Planning Department



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E-Mail: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)**

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**AGENDA ITEM NO.:** 6 (Action Item – Public Hearing)  
**PLANNING COMMISSION MEETING DATE:** February 23, 2022  
**SUBJECT:** Variance #2022-01/Cassell

#### **EXECUTIVE SUMMARY**

An application for a variance to encroach approximately 5-feet into the required 20-foot side yard setback for a property zoned Rural Residential (RR) that is located at 1520 Indian Springs Drive, in the Alabama Hills neighborhood of Lone Pine. The applicant, Aaron Cassell, is proposing to convert an existing building on the property into an approximate 1,125-square-foot single-family home. This project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the Class 5 exemption.

#### **PROJECT INFORMATION.**

**Supervisory District:** 5

**Project Applicant:** Aaron Cassell, 1520 Indian Springs Drive, Lone Pine, CA 93545

**Property Owner:** Alexis Holzer, 1520 Indian Springs Drive, Lone Pine, CA 93545

**Site Address/**

**Community:** 1520 Indian Springs Drive, Lone Pine, CA 93545

**A.P.N.:** 026-340-17

**General Plan:** Residential Rural Medium Density (RRM) – 1 unit/2.5-acre

**Zoning:** Rural Residential with a 2.5- minimum (RR-2.5)

**Size of Parcel:** Approximately 2-acres

**Surrounding Land Use:**

<b>Location</b>	<b>Use</b>	<b>General Plan Designation</b>	<b>Zone</b>
Site	Previously developed - Single family residence	Residential Rural Medium Density (RRM), 1unit/2.5-acres	Rural Residential (RR), 2.5-acre minimum lot size
North	Indian Springs Road Single family home/vacant land	Residential Rural Medium Density (RRM), 1unit/2.5-acres	Rural Residential (RR), 2.5-acre minimum lot size
East	Single family homes	Residential Rural High Density (RRH), 2.0 du/acre	One-Family Residential (R1), 1-acre minimum lot size
South	Single family homes	Residential Rural High Density (RRH), 2.0 du/acre	One-Family Residential (R1), 1-acre minimum lot size
West	Single family homes	Residential Rural Medium Density (RRM), 1unit/2.5-acres	Rural Residential (RR), 2.5-acre minimum lot size

**Staff Recommended Action:**

**1.) Approve the Variance.**

**Alternatives:**

- 1.) Deny the Variance.
- 2.) Approve the Variance 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**

Variance Request & Site Characteristics

The applicant owns an approximate 2-acre parcel at 1520 Indian Springs Drive (vicinity map attached). This parcel, until very recently, had a burned out manufactured home on it that had been condemned. The previous owner had been living in a small travel trailer on the property for several years after the fire that destroyed the home, in violation of the zoning code. The current owner has removed the burned out building and wants convert an accessory building on the property into a dwelling unit. This building is approximately 1,125-square-feet. There is also a garage still on the property located about 25-feet from the proposed accessory building conversion.

The parcel is zoned RR, it requires the following setbacks for the principal permitted use (in this case a single family dwelling):

- Front: 50-feet
- Rear: 30-feet
- Side: 20-feet.

Accessory buildings in the RR zone have the setback requirements of:

- Front: 50-feet
- Rear: 5-feet
- Side: 5-feet.

The building proposed for the conversion currently meets the required setbacks as an accessory building, but does not has a principal permitted, single family dwelling. As it stands it is about 14'10" from the west side yard parcel boundary, making it about 5' 2" shy of the required setback. The applicant is asking for a variance from the 20-foot side yard setback requirement on the west side of the property to encroach 5' 2", so this building can be repurposed into a dwelling unit (attached - site and proposed dwelling unit plans).

#### Provision for Variances

The Inyo County Zoning Ordinance states that any variance to the terms of the Zoning Ordinance may be granted if such a variance would "*not be contrary to its general intent or the public interest, where due to special conditions or exceptional characteristics of the property or its location or surroundings, a literal enforcement would result in practical difficulties or unnecessary hardships*" (Section 18.81.040).

Further, the Zoning Ordinance states that the following three Findings must be affirmed in order for any variance to be granted:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.
3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.

In addition to the above Findings specified in the Inyo County Zoning Ordinance, California State Government Code requires the following Findings for any variance:

4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.



5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.
6. The proposed variance is consistent with the General Plan.
7. The requirements of the California Environmental Quality Act have been met.

Affirmative variance Findings must describe the special circumstances that act to physically differentiate the project site from its neighbors and make it unique, and thus uniquely justified for a variance; alternatively, negative findings must describe how the project's physical characteristics are not unique or exceptional, and therefore do not justify a variance.

ALL seven of the Findings must be affirmed in order for a variance to be approved.

## **ENVIRONMENTAL REVIEW**

This project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the Class 5 exemption, "Minor alterations to land use limitations, such as lot line adjustments, variances, and encroachment permits on land with a slope of less than 20%, which do not result in changes in land use or density."

## **NOTICING AND REVIEW**

The application for VAR 2022-01/Cassell has been reviewed by the appropriate county departments. No issues were reported by County staff. The VAR is being conditioned, however, with meeting all County and State regulations for building, water and sanitary services.

The hearing for VAR 2022-01/Cassell was noticed on February 12, 2022 in the Inyo Register and mailed to property owners within 300-feet of the project location on February 9, 2022, as required by the Inyo County Code. No comments have been received to date.

## **RECOMMENDATIONS**

### Findings

Staff has reviewed this application and can find that all seven of the required Findings can be affirmed:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.  
*(Affirmative – Evidence: The property is zoned RR, which requires a front yard setback of 50-feet, rear yard setback of 30-feet and side yards of 20-feet. There is a pre-existing structure that the owner is proposing to use to convert to a single family dwelling. In its current state this building meets the accessory building setback requirements and it is perfectly suited for the conversion. The original single family dwelling also met the required setbacks. It burned down, however, and had to be removed. This created an expense that has made building a whole*

*new home from the ground up impossible for the owner. There are other properties in the RR zone in the neighborhood and in the rest of the County that also do not meet setback requirements. This parcel and situation are unique as the original single family home built there burned down and the reuse of the existing structure is the most viable option for the owner.)*

2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.  
*(Affirmative – Evidence: This variance request to encroach into a side yard setback and will not result in allowing for activities that are unusual to the surrounding neighborhood and it would not be detrimental or injurious to either public welfare or other properties in the vicinity as it is a single family residence in a residentially zoned neighborhood. The shorter side yard will also not create privacy or encroachment issues with the adjoining property on the west as it is about 63-feet from the neighboring house. This gives more distance than the required setback distance if both properties met the 20-foot side yard requirement.)*
  
3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.  
*(Affirmative – Evidence: The project site has suffered a fire that destroyed the original single family dwelling. This factor creates difficulties/hardships in meeting the required setback requirements for the RR zone with regard to using an existing structure to replace the one that burned down. Granting a variance to encroach approximately 5-feet into the side yard setback would still allow the general purposes of Title 18.21 of the Zoning Code to be fulfilled, as the encroachment would not change the low-density, single-family, residential character or use of the property.)*
  
4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.  
*(Affirmative – Evidence: The project site has suffered a fire that destroyed the single family dwelling that was built there, but it left an accessory building that is perfectly suited for conversion. There are several other homes located along Indian Springs Drive that also do not meet setback requirements, but do not share this same history. For these reasons, the requested variance to encroach into the side yard setback cannot be said to constitute a grant of special privileges. It would, instead, allow the property owners the ability to use their property in the same manner as the other properties in the vicinity.)*
  
5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.  
*(Affirmative – Evidence: The proposed variance applies to side yard setback requirements. The proposed residential use is permitted in the RR Zone.)*

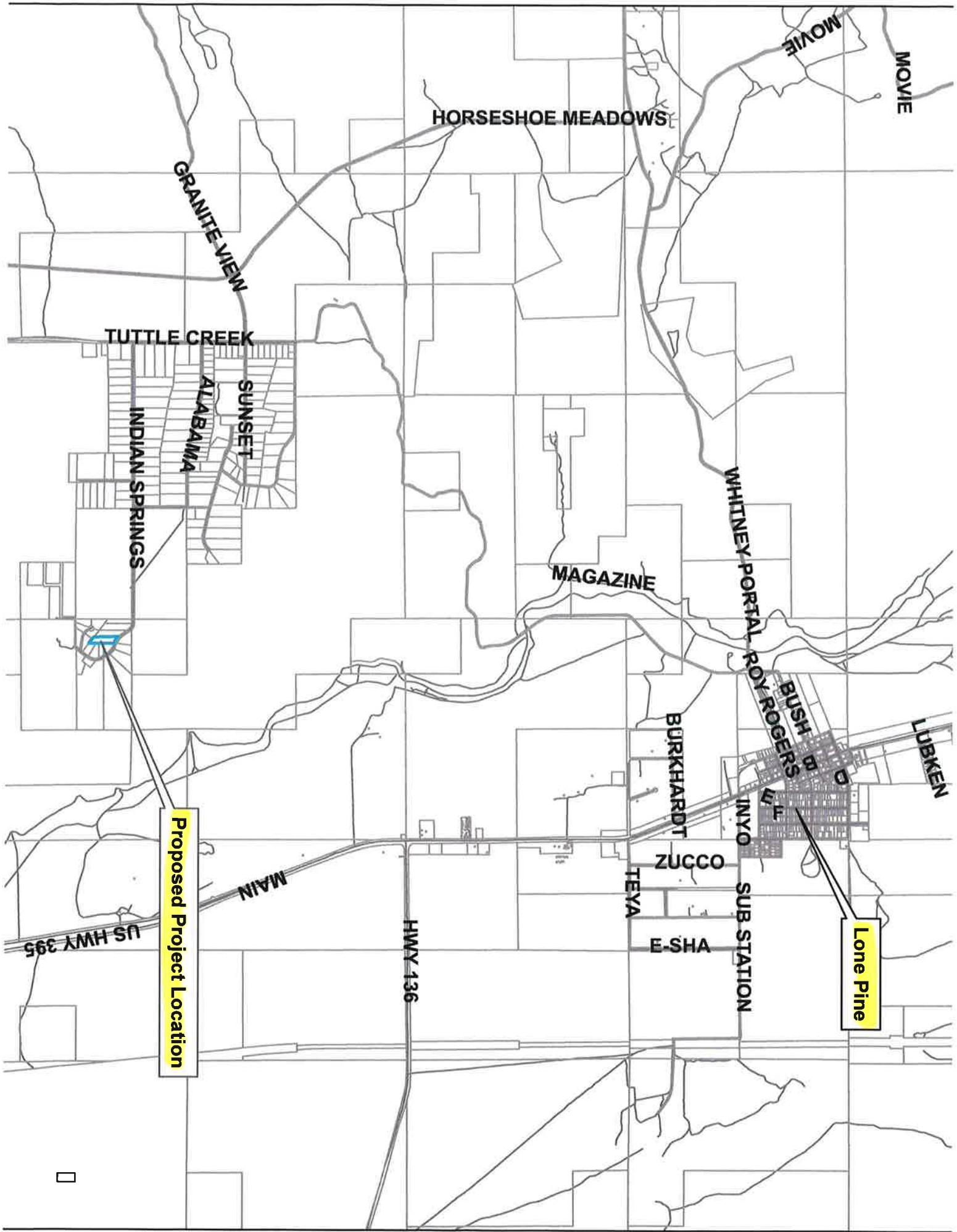
6. The proposed variance is consistent with the Inyo County General Plan  
*(Affirmative – Evidence: The requested variance presents no inconsistencies with the General Plan land use designation of the project site, which is Residential Rural Medium Density (RRM) 1unit/2.5-acre.)*
7. The requirements of the California Environmental Quality Act have been met.  
*(Affirmative – Evidence: The requested variance is not subject to the provisions of CEQA, being categorically exempt under Class 5.)*

Conditions of Approval

- 1.) Hold Harmless: 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 Variance #2022-01/Cassell, or the applicant's failure to comply with conditions of approval.
- 2.) The applicant shall obtain all required County and State permits regarding water, waste water and the building code. Failure to do so may result in the revocation of the Variance.

**ATTACHMENTS**

- Site Map/General Vicinity Map
- Site Plan
- Building Plans



MOVIE  
MOVIE

HORSESHOE MEADOWS

GRANITE VIEW

TUTTLE CREEK

INDIAN SPRINGS

ALABAMA

SUNSET

MAGAZINE

WHITNEY PORTAL

ROY ROGERS

BURKHARDT

LUBKEN

INYO SUB STATION

ZUCCO

TEVA

E-SHA

MAIN

HWY 136

US HWY 395

Proposed Project Location

Lone Pine

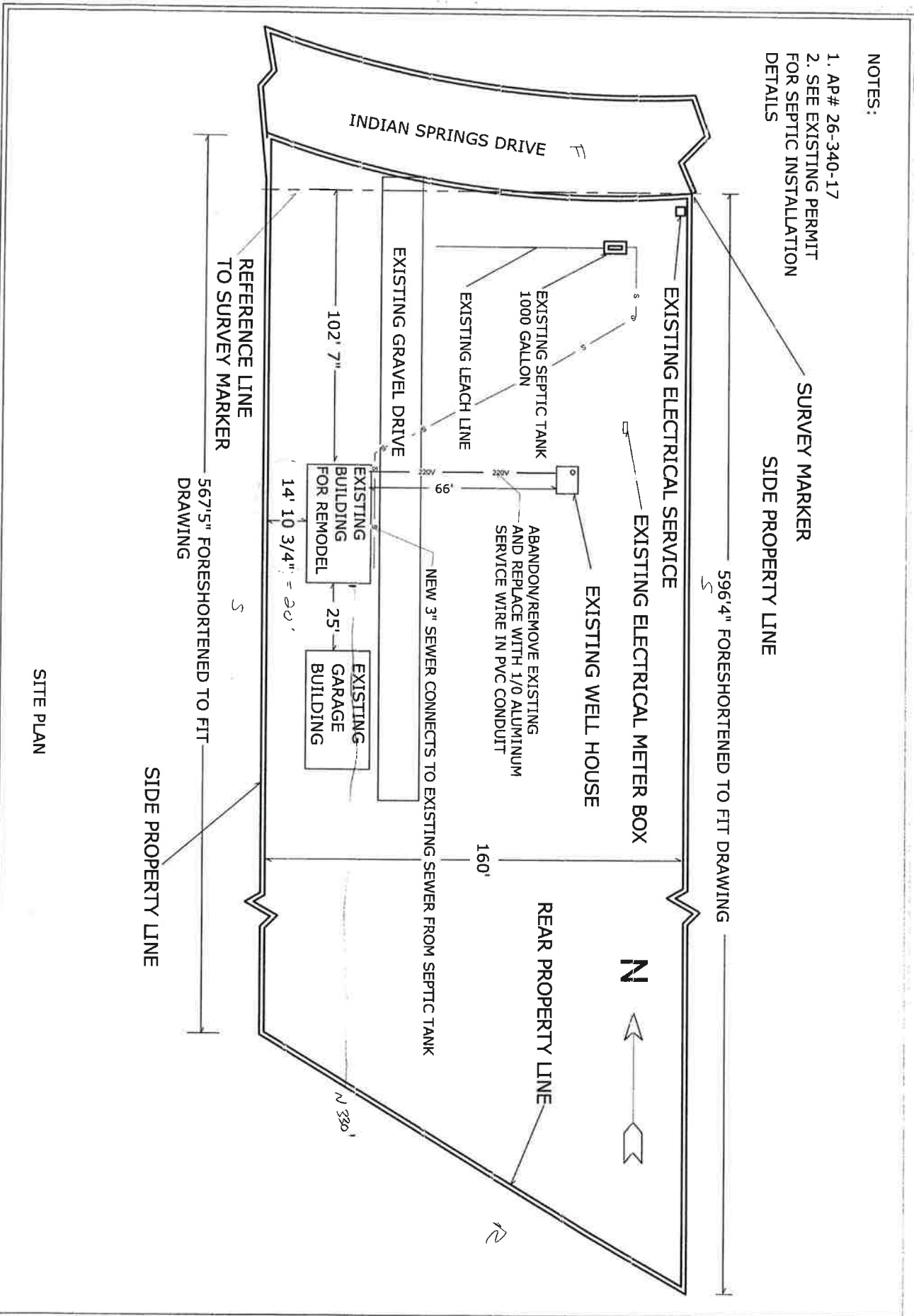
□

Building Proposed for Conversion



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

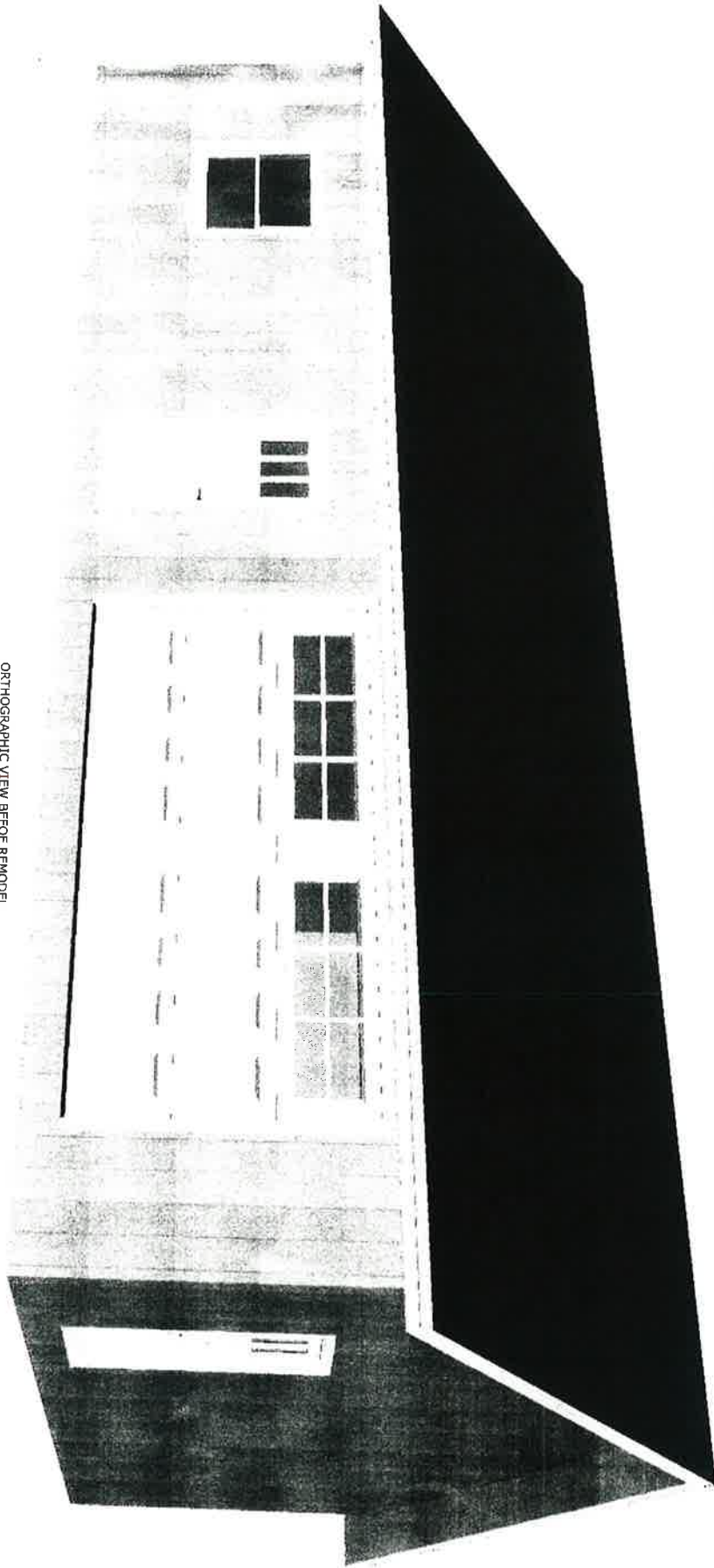
- NOTES:
1. AP# 26-340-17
  2. SEE EXISTING PERMIT FOR SEPTIC INSTALLATION DETAILS



SITE PLAN

SHEET: -4-	DATE: 6/22/2021	DRAWINGS PROVIDED BY: <b>TIMOTHY M CASSELL</b> 17771 MCKINNON DR. SARATOGA, CA 95070 (775) 482-4076	PROJECT DESCRIPTION: AP#26-340-17 Aaron Cassell & Alexis Holzer 1520 Indian Springs Drive Lone Pine, CA 93545	SHEET TITLE: <b>SITE PLAN</b>	NO	DESCRIPTION	BY	DATE
	SCALE:							

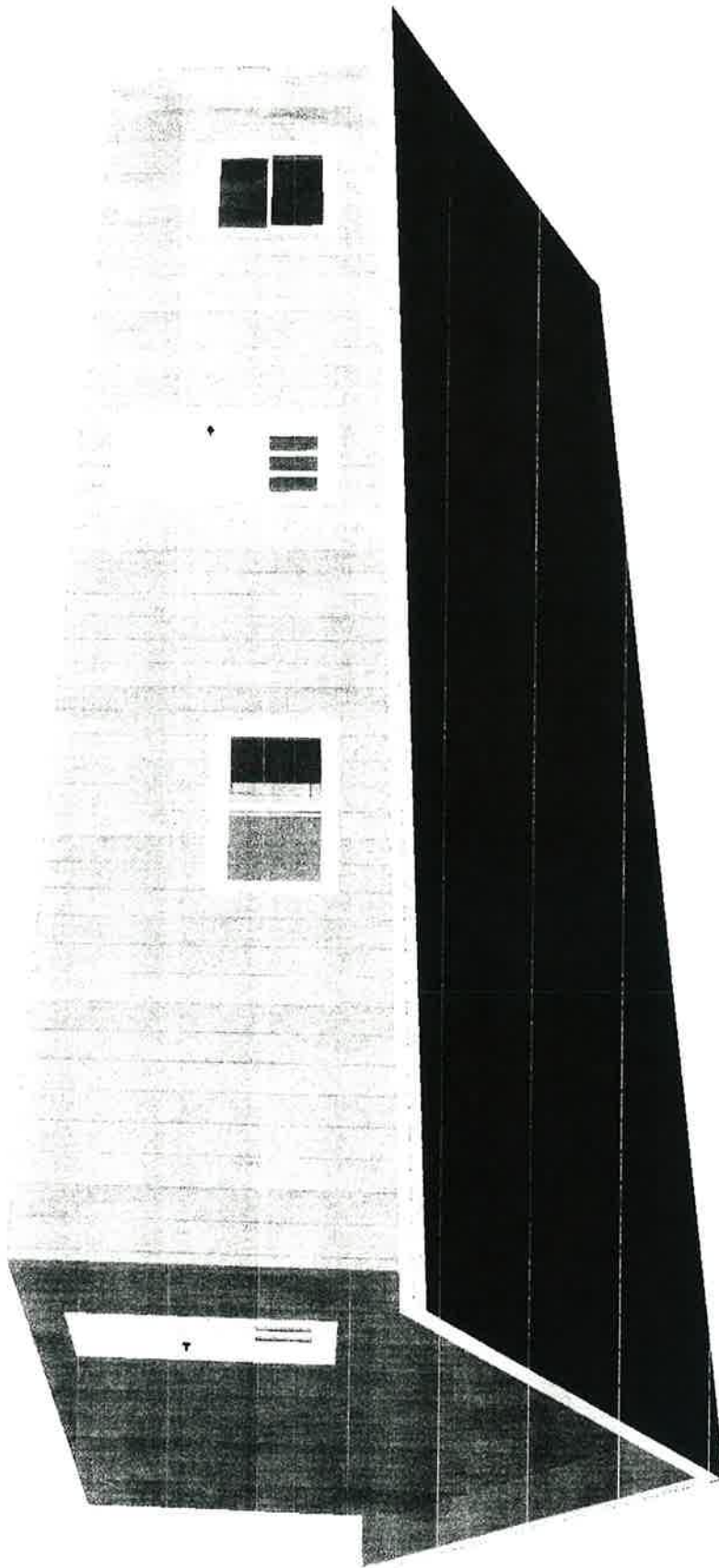
AARON AND ALEXIS' HOUSE BEFORE  
REMODEL



ORTHOGRAPHIC VIEW BEFORE REMODEL  
(ARTIST'S CONCEPTION)

SHEET: -1-	DATE: 6/22/2021	DRAWINGS PROVIDED BY: <b>TIMOTHY M CASSELL</b> 17771 MCKINNON DR. SARATOGA, CA 95070 (775) 482-4076	PROJECT DESCRIPTION: AP#26-340-17 Aaron Cassell & Alexis Holzer 1520 Indian Springs Drive Lone Pine, CA 93545	SHEET TITLE: <b>BEFORE FRONT VIEW</b>	<table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>BY</th> <th>DATE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DESCRIPTION	BY	DATE																
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**AARON AND ALEXIS' HOUSE AFTER  
REMODEL**



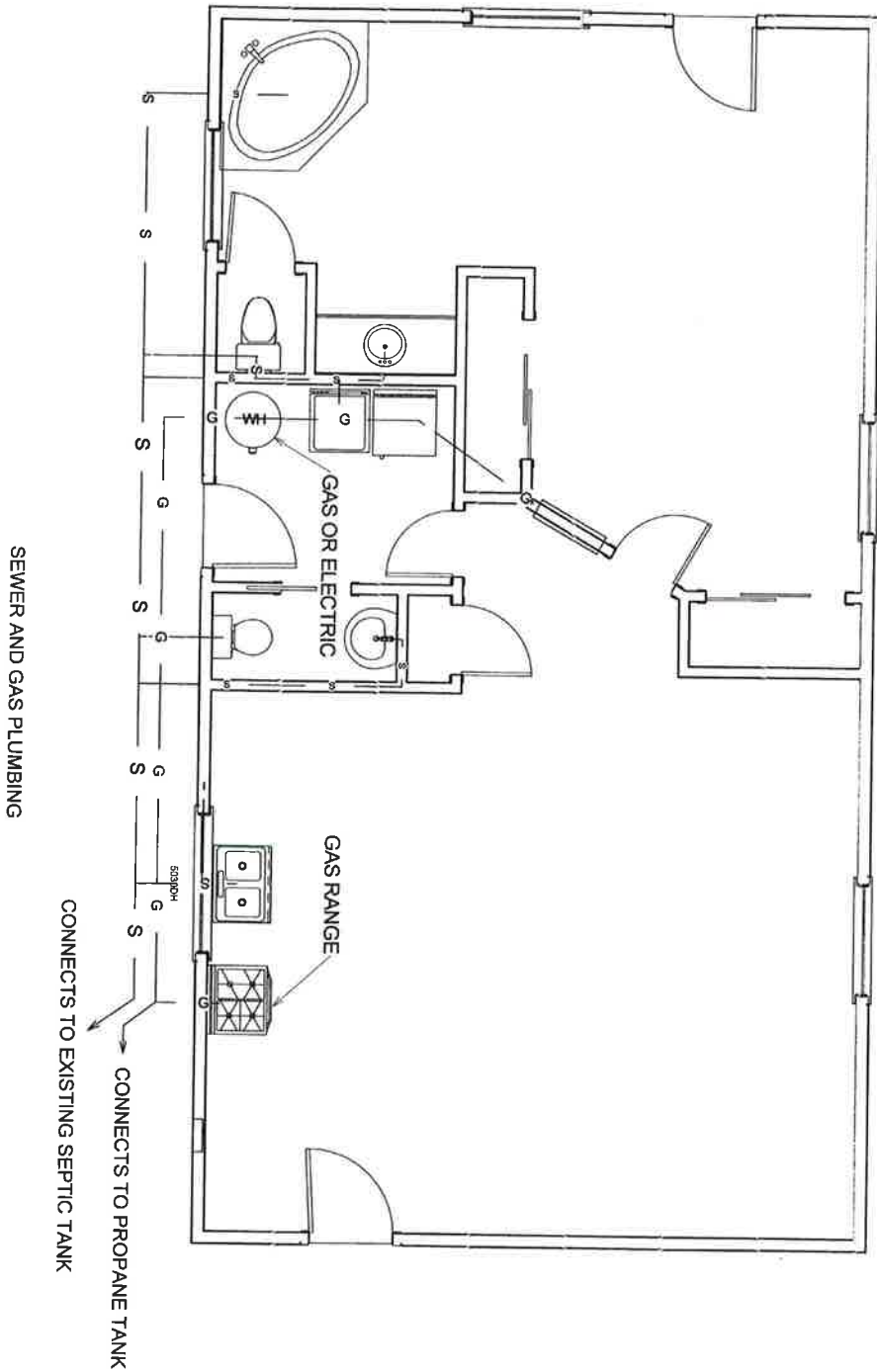
ORTHOGRAHIC VIEW OF COMPLETED REMODEL  
(ARTIST'S CONCEPTION)

SHEET: -2-	DATE: 6/22/2021	DRAWINGS PROVIDED BY: <b>TIMOTHY M CASSELL</b> 17771 MCKINNON DR. SARATOGA, CA 95070 (775) 482-4076	PROJECT DESCRIPTION: AP#26-340-17 Aaron Cassell & Alexis Holzer 1520 Indian Springs Drive Lone Pine, CA 93545	SHEET TITLE: <b>FRONT VIEW AFTER REMODEL</b>	<table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>BY</th> <th>DATE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DESCRIPTION	BY	DATE																
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NOTES:

1. UNDERGROUND GAS PIPE SHALL BE 3/4" DR. 11 UNDERGROUND YELLOW POLYETHYLENE GAS PIPE
2. ABOVE GROUND GAS PIPE SHALL BE 3/4IN Steel Wrapped Pipe
3. SEWER PIPE SHALL BE ABS IN THE FOLLOWING SIZES:  
 MAIN DRAIN TO SEPTIC TANK - 3"  
 TUB AND/OR SHOWER DRAIN 2"  
 BATHROOM SINK 1 1/2", TWO PLACES  
 KITCHEN SINK DRAIN 2"  
 TOILET DRAIN 3", TWO PLACES  
 SINK AND TUB VENT 1 1/2", 4 PLACES  
 TOILET VENT 2", 2 PLACES
4. SEE SHEET 9 FOR DETAILED DRAIN DIAGRAMS
5. WATER HEATER CAN BE GAS OR ELECTRIC



SHEET: <b>- 13 -</b>	SCALE: 6/22/2021	DATE: 6/22/2021	DRAWINGS PROVIDED BY: LIC# XE063559 <b>TIMOTHY M CASSELL</b> 17771 MCKINNON DRIVE SARATOGA, CA 95070 (925) 482-4076	PROJECT DESCRIPTION: <b>AARON CASSELL &amp; ALEXIS HOLZER</b> REMODEL OF EXISTING BUILDING	SHEET TITLE: <b>SEWER &amp; GAS PLUMBING</b>
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