

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

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

Inyo County Planning Commission
Post Office Drawer L
Independence, CA 93526
(760) 878-0263
(760) 872-2712 FAX
inyoplanning@inyocounty.us

CATHREEN RICHARDS
PAULA RIESEN
MICHAEL ERRANTE
LESLIE CHAPMAN
GRACE CHUCHLA

PLANNING DIRECTOR
PROJECT COORDINATOR
PUBLIC WORKS DIRECTOR
COUNTY ADMINISTRATOR
DEPUTY COUNTY COUNSEL

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/87489559305?pwd=ajdtWU8va2x0MwIwRTd4cG5HQW9WQT09>

You can also dial in by phone at 1-669-900-6833 Meeting Id: 874 8955 9305 and then enter Passcode: 222445. 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

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).

January 26, 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. **APPROVAL OF MINUTES** – Approval of minutes from the October 27, 2021 Planning Commission Meeting.
- Action Item
5. **APPROVAL OF MINUTES** – Approval of minutes from the November 10, 2021 Special Planning Commission Meeting.
- Action Item
Public Hearing
6. **CONSIDERATION OF A RESOLUTION** - The Planning Commission to meet remotely pursuant to AB 361.
- Action Item
Public Hearing
7. **NOMINATION & ELECTION OF CHAIR PERSON** – The Commission will accept nominations for Chairperson for 2022 and hold election.
- Action Item
Public Hearing
8. **NOMINATION & ELECTION OF VICE CHAIR PERSON** – The Commission will accept nominations for Vice-Chairperson for 2022 and hold election.
- Action Item
Public Hearing
9. **CONDITIONAL USE PERMIT-2021-09/COSO STORE** - The applicant has applied for a CUP to continue to operate a non-conforming truck stop at the property located at 20 Gills Station Road, at Coso Junction. The truck stop has been operating at the site for many years. The applicant has demolished the gas station and store to rebuild a larger facility with a store and food outlets. The truck parking area is also being expanded on the site and will allow for overnight parking. This project is exempt from the provisions of the California Environmental Quality Act (CEQA).
- Action Item
Public Hearing
10. **CONDITIONAL USE PERMIT-2021-05/NANO FARMS CANNABIS** - The applicant has applied for a fence height variance for up to 10-feet on a property zoned Open Space (OS) that is located at 377 Rosemary Lane, in the community of Sandy Valley. The applicant is requesting the fence height variance to provide extra security for a cannabis cultivation business located on the property. This project is exempt from the provisions of the California Environmental Quality Act (CEQA).
- Closed Session
11. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – Pursuant to paragraph (1) of subdivision (d) of Government Code §54956.9 – Name of case: Appeal to the Inyo County Board of Supervisors by Bush Management Company of the December 1, 2021 Inyo County Planning Commission Decision to Revoke CUP 2007/05 Pruet Ballarat, Inc.; Appeal no. 2021/02
- Open Session
12. Report on closed session

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 October 27, 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

Inyo County Planning Commission
Post Office Drawer L
Independence, CA 93526
(760) 878-0263
(760) 872-0712 FAX

STAFF:

CATHREEN RICHARDS
GRACE CHUHLA
JOHN VALLEJO
GRAHAM MEESE
PAULA RIESEN
LESLIE CHAPMAN
MIKE ERRANTE

PLANNING DIRECTOR
DEPUTY COUNTY COUNSEL
ASSISTANT COUNTY COUNSEL
ASSISTANT PLANNER
PROJECT COORDINATOR
COUNTY ADMINISTRATOR
PUBLIC WORKS DIRECTOR

The Inyo County Planning Commission met in regular session on Wednesday, October 27, 2021, using Zoom for our meeting. Commissioner Morely opened the meeting at 10:01 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 10:01 a.m.

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

Staff present: Cathreen Richards, Planning Director; Ryan Standridge, Associate Planner, Graham Meese, Assistant Planner, Paula Riesen, Project Coordinator, Grace Chuhla, Deputy County Counsel and John Vallejo, 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: **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the September 22, 2021 meeting of the Planning Commission.

MOTION: Commissioner Todd Vogel made the motion to approve the minutes. Then Chair Morley had corrections of Commissioner Peek’s spelling of her name on page 3, and on page 2 correct Graham Meese is the Assistant Planner on page 2. Commissioner then made an amended motion to approve the minutes and Commissioner Somers made the second.

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

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

ITEM 5: **CONSIDERATION OF A RESOLUTION** - The Planning Commission to meet remotely pursuant to AB 361.

John Vallejo, County Counsel, explained that the Governor’s order for meeting remotely due to COVID-19 has expired. This meeting we have to pass a Resolution to meet every 30 days to continue to meet remotely due to Dr. Richardson’s, our Local Health Officer, who issued a Mandate for Inyo County to continue public distancing.

Chair Morley opened the Public Comment Period at 10:15 a.m.

With no one wishing to speak Chair Morley closed the Public Comment period at 10:15 a.m.

Cathreen Richards, Planning Director recommended that we discuss scheduling of meetings at the end of the meeting since that has been standard practice of past meetings.

ITEM 6: **CONDITIONAL USE PERMIT-2021-07/GRAVES** - The Applicant is applying for a conditional use permit to convert his garage, which is nonconforming to the required side yard setback, into a habitable space along with building an addition to connect the garage to the main house. Under County Code 18.78.250, “A nonconforming building shall not be enlarged, extended or structurally altered without submission of and approval by, the planning commission of a conditional use permit application.”

Graham Meese, Assistant Planner presented staff report. Before he started he explained that he had resigned from his position as Assistant Planner and this will be his last two presentations to the Commission.

Chair Morley asked if the footprint of the house changed at all.

Assistant Planner, Graham Meese answered no it did not change the footprint. It change it just expanded the Single Family Dwelling unit to include the garage.

Chair Morley opened the Public Comment Period at 10:23 a.m.

With no one wishing to speak Chair Morley closed the Public Comment period at 10:23 a.m.

MOTION: Commissioner Todd Vogel made a motion to approve CUP-2021-07/Graves with findings 1-7 and Conditions of approval 1-2. Commissioner Scott Kemp made the second.

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

The Motion passed 5-0 at 10:25 a.m.

ITEM 7: **GENERAL PLAN AMENDMENT-2021-03/ZONE RECLASSIFICATION-2021-03/W. MCNEAL** - The applicant is proposing to change the Zoning and General Plan Designations on a property, located at 100 Tecopa Hot Springs Road in Tecopa, CA. Currently, this parcel is zoned Rural Residential with a 1 acre minimum (RR-1.0) and has the General Plan designation of Residential Rural High Density (RRH). The applicant is requesting the Zoning Designation of Highway Services and Tourist Commercial with a 1.5 acre minimum (C2-1.5); and the General Plan Designation of Resort/Recreational (REC). The applicant has operated a nonconforming short-term rental on his property and has applied for a Zone Reclassification and General Plan Amendment to better match the surrounding commercial zoning designations and bring the existing use into conformance. There is no development proposed at this time.

Assistant Planner, Graham Meese proceeded to explain that he had resigned his position as Assistant Planner at Inyo County and gave his last staff report.

Commissioner Lanie Somers asked if there was to be any interest expressed in regards to Cannabis Cultivation on this property. I am just kind of wondering if we are approving it for one thing, and it is actually of interest to be approved for another thing.

Assistant Planner, Graham Meese answered that they talked about this extensively at the beginning as far as what their intentions were not to grow Cannabis but to bring their Short Term Rentals into conformance. If they did choose to do that they would have to go through CEQA again.

Commissioner Lanie Somers said she has no opinion on the growing of Cannabis, just wanted to make sure they were not setting the stage for something, and looking to be more transparent.

Graham Meese, Assistant Planner checked that Cannabis in a C2 district, would only allow them to do retail and delivery and distribution, and potentially microbusiness with the combination of those two. So cultivation is not even a permitted use.

Commissioner Somers thanked Graham for his research.

John Vallejo, County Counsel said for what it is worth you can put it in the comment but, Cannabis activities in the County require a completely separate licensing process that also has to be approved by the Board of Supervisors first and then comes back to your planning commission for a conditional use permit for that specific activity as well. So there is nothing here that just automatically allows Cannabis activities period, there is always a separate track requiring of additional approvals.

Cathreen Richards, Planning Director stated that it is irrelevant to this project and thinks we are getting off track. There is no Cannabis application here.

Chair Morley opened the Public Comment Period at 10:37 a.m.

Mary Ver Hoef was the first to speak. Her question is the actual intent of this is to keep it as a place to sleep for rental?

Graham Meese, Assistant Planner stated that is correct.

Mary Ver Hoef answered okay; I guess my problem is this designation of highway services, what is that?

Graham Meese, Assistant Planner stated that it is one of the commercial designations that that Inyo County has. In regards to the Tecopa Community Plan this area was identified that it was a commercial hub it was recommended for resort commercial that is what Delight Hot Springs is zoned just above it, and that would allow then to operate a short term rental or a sort of hotel motel. As I said earlier, because of the setbacks we decided that the highway services and tourist commercial zone was more appropriate due to the setbacks.

Cathreen Richards, Planning Director said just to answer the zoning question itself, it is zone that is intended for busy though fair and streets and touristy areas.

Mary Ver Hoef asked if they intended to do a gas station if they would have to come back for permission right?

Cathreen Richards, Planning Director answered let me double check if it is a principal permitted or would require a conditional use permit. It does look like it is a permitted use, so yes that would be allowed.

Mary Ver Hoef said she would have a concern.

Cathreen Richards, Planning Director said she does not believe that they are going to put a gas station there. We are working on this application as it has been submitted.

Chair Morley said she would like to point out that it looks like all the surrounding properties already have similar designation to the one that is getting proposed for this

proposed for the property. So all the surrounding properties already have principal permitted uses of a gas station. Is that right for the C5 zoning?

Graham Meese, Assistant Planner corrected the zoning with the C2 Zoning.

Mary Ver Hoef said they are one lot over; we are single family residential on the other side of the transfer station and would like the person who is asking for the change to comment on what they had in mind.

Chair Morley wanted to give Mary Ver Hoef one last chance to comment, and then her turn will be over. Then the Applicant can comment if they like.

Wesley McNeal the applicant wanted to thank everyone for all their time and effort towards this, thank you Graham and sorry to see you go. We have no intentions of building a gas station; I just want my place to meet all the regulations and just stay the way it is.

With no one else wishing to speak, Chair Morley closed the public comment period at 10:43 a.m.

MOTION: Commissioner Todd Vogel said it looks pretty straight forward to me as well, and therefor would make a motion to approve the GPA-2021-03/W. McNeal and ZR-2021-03/W. McNeal certify that both of those are exempt of CEQA, and subject to findings 1-5. Commissioner Scott Kemp made the second.

Commissioner Lanie Somers asked Commissioner Vogel to amend his motion to include a recommendation to the Board of Supervisors approval.

Commissioner Vogel amended his recommendation to the Board of Supervisors that they approve this. Commissioner Scott Kemp made the second to the amended motion.

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

The Motion passed 5-0 at 10:46 a.m.

ITEM 8: **GENERAL PLAN AMENDMENT-2021-02/ZONE RECLASSIFICATION-2021-02/7/11MATERIALS INC.** - The applicant is requesting a GPA and ZR to meet the requirements of the reclamation plan for the Adams Pit located near the Bishop Airport. The reclamation plan requires this reversion to the original zoning and general plan designation for the mine to close. This project is exempt from CEQA.

Ryan Standridge, Associate Planner, presented staff report.

Chair Morley wanted to clarify the zoning change on the map.

Ryan Standridge, Associate Planner, replied yes, that is the 8 acres conditioned from the CUP.

Chair Morley asked if the Airport have any plans to utilize this space in another way than it is getting utilized now. Or is this just making sure that, there are conforming uses are appropriate giving the zoning designation?

Ryan Standridge, Associate Planner, there is a fire safety area that will be fenced off, This site is already fenced off anyway because they have had problems with people camping out there and different things. But again, they needed a specific area for the fire safety and it needed to be cleared of all debris so they will be fencing off a section pretty much right in the middle of the reclaimed mining is.

Chair Morley said I see so the current zoning designation cannot be open space because it is now going to be fenced and maintained in some form.

Chair Morley then asked if the reclamation complete. Or are there ongoing activities, or done in the terms of recuperation from the mining activities that took place?

Ryan Standridge, Associate Planner, stated that the mining has been complete since 2016 was the last time they did any mining reclamation.

Chair Morley said so there is no concern that there is undone reclamation effort would be effect at all by this proposed zone change.

Ryan Standridge, Associate Planner, answered no, everything is already pretty much back to what it has vegetation it has growth in the area that is devoid of growth for fire safety requirements within the airport.

Chair Morley asked if there were any other commissioners that had any questions from the staff presentation.

Chair Morley opened the Public Comment Period at 10:53 a.m.

With no one wishing to speak Chair Morley closed the Public Comment period at 10:54 a.m.

MOTION: Commissioner Lanie Somers said the planning commission would like to certify that the provision that CEQA has been satisfied as the project was deemed exempt from environmental review and based on the substantial evidence that the record the planning commission recommends the Board of Supervisors find that the GPA-2021-02 7/11 and ZR-2021-02/ 7/11 Materials Inc. are in conformance with the Goals and Objectives of the Inyo County General Plan. Commissioner Todd Vogel made the second.

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

The Motion passed 5-0 at 10:56 a.m.

ITEM 9:

CONDITIONAL USE PERMIT-2019-01/SHADE GROWN FARMS VIOLATION HEARING - On February 27, 2019 the Planning Commission, upon the recommendation of staff, approved a CUP for the applicant to operate a commercial cannabis cultivation operation at 140 Agate Drive in the community of Stewart Valley. The project proposal included growing cannabis plants of a variety of strains as well as processing the mature plants which entails drying, curing, trimming and packaging at the project site. The CUP was approved with several conditions, one of these being conformance with all applicable provisions of the County Code and State Regulations. The applicant has failed to meet these conditions as construction to house the cannabis operations has occurred with no building, electrical or plumbing permits, therefore, staff is recommending the revocation of CUP.

Grace Chuchla, Deputy County Counsel is representing the Planning Departments action item on the agenda as described in the staff report. The Planning Department is requesting the revocation of a conditional use permit that has been issued to Mr. Lowell Shade for Cannabis Cultivation in the Charleston View area. For the violation on condition number three that requires compliance with the Inyo County code and state regulations. Condition number three further requires that if the use established by the CUP is not commenced within one year the CUP will become void. So the first part of the CUP with the Planning Department is with Mr. Shade and his parcel is he has not complied with the Building Code. James Feeney from the Inyo County Building Department is here and I will let him testify in more details about this. Essentially, after numerous rounds of back and forth and missed opportunities with the Building Department to bring his property into compliance Mr. Shade has not done so. The second part of the Condition number three which is establishing use within one year, Cathreen Richards our Planning Director and who is the primary source of contact for this CUP will explain how Mr. Shade in fact has not established the use created by this permit within one year. The use created is the lawful cultivation of cannabis in compliance with all state and county codes. As Ms. Richards will explain that after an extensive back and forth with Mr. Shade that has been well over a year and he has not brought his property into compliance. While he is growing he is growing illegally and out of compliance with state and county codes. At this point I would like to ask Mr. Feeney to provide some additional information regarding the Building & Safety part of the violation.

Chair Morley stopped the proceeding to explain to everyone what will be standard operating procedure during this action item number 8. So as the Public is aware we have a violation hearing, the county staff and the county team presents what they feel is the violation, Commissioners have a chance to ask questions directly to them. Then we give the representative from Shade Grown Farms the opportunity to have the floor more than the normal three minutes in public comment to provide their side, Commissions can then questions of them, then we will open up for Public Comment. The process is just slightly different.

John Vallejo, County Counsel stated that sense we are about to take factual testimony did you, Chair Morley open the Public Hearing?

Chair Morley answered not yet.

John Vallejo, County Counsel then answered we should open the public hearing and take this all as testimony.

Chair Morley asked if it should be retroactive to a certain time or start now.

John Vallejo, County Counsel stated that Grace just introduced the item. Now we actually start hearing essential facts of evidence from witnesses on the ground, so open the Hearing now and move forward.

Chair Morely formally opened the Public Hearing at 11:01 am.

James Feeney, Building Inspector started his testimony to keep it simple because the code can be difficult to navigate for people, essentially what we are looking at with Shade Grown Farms is they are in violation of California Code section 105.5 clearly states that you clearly have to have passing inspections within 180 days and we are looking at approximately 640 days since the issuance without any passed inspections. Some of the issues are the green houses were constructed without any request for inspections. There were no rough electrical inspections requested. A site visit on September 1, 2021, revealed many electrical code violations, missing cover plates, in adequate bonding, ect. Also, the CUP required there would be a public ADA bathroom. The bathroom was constructed without and the benefit of plans submitted, so there was no plan review for this bathroom. At the site visit it revealed the foundation, the electrical, the plumbing and the ADA access, none of them meet the intent of the building code. There is issues with commercial wiring that's required inside the raceways, can't be exposed Romex. So there is a lot of issues with the wiring and process that Mr. Shade has gone through, to get to where he is at. So essentially, within a six month period, if you have no inspections have been passed your permit is void. I mentioned earlier that 640 days had gone by without any inspections that had passed, by the Building Department. I am glad to take any questions.

Grace Chuchla, County Counsel stated that she had a few more follow up questions Just so we can get some information for the record. Can you please explain to the Planning Commission what your title and role is within Inyo County?

James Feeney stated I am a Building Inspector for Inyo County. Inspect residential and commercial properties and businesses and I work under Tyson Sparrow & Mike Errante.

Grace Chuchla, County Counsel asked, in the course of your duties for the County are you familiar with California building codes and standards?

James Feeney, Building Inspector answered; Yes.

Grace Chuchla, County Counsel asked, how many times did you visit Shade Grown Farms?

James Feeney, Building Inspector answered; there have been two site visits since the issuance to Shade Grown Farms. Each visit did not produce a passed inspection. It also revealed other violations, such as the placement of Shipping Containers with Solar attached to the top without the benefit of a building permit. There are some other issues that the property has been running the grow on a 50 amp subpanel and the initial building application has verbiage in it that there would be infrastructure improvements that we have just yet to be called out for any passing inspections.

Grace Chuchla, County Counsel, said I know in your previous testimony you describe a variety of problems or violations to the California building code that you observed at this property. Can you now explain now for the Commission why these violations pose a danger to public health?

James Feeney, Building Inspector answered; well with inadequate wiring creates an issue to public health and safety. So there is the issue with inadequate wiring but I am going to go back to the California Building Code section 105.5 that states the timeframe of required inspections, so we are falling short on that. There was supposed to be an infrastructure improvement of subpanels, main panels, wiring, and commercial wiring to these green houses and none of that has been done. And for lack of a more graceful term a lot of the wiring has just been Mc Gyver'd in, a combination of different sizes of wiring that I have observed, things that are not done to code out there on many levels.

Grace Chuchla, County Counsel, and so if work is not done to code what problems can that cause?

James Feeney, Building Inspector answered; it can cause electrical fires, you can have panel meltdowns that type of situations, essentially electrical fires.

Grace Chuchla, County Counsel, has the building department attempted to help Mr. Shade into bringing his structures into compliance?

James Feeney, Building Inspector answered; yes, numerous times.

Grace Chuchla, County Counsel, could you describe some of the things the building department has provided?

James Feeney, Building Inspector answered; we provided code sections, we have provided site visits, on those site visits we have discussed the ways to do certain installations, we provided many pdf's and downloadable booklets of construction and electrical. So the building official and myself have been extremely available for Mr. Shade, we have provided all the information above and beyond really. There is lots of

documentation emails and texts that describe the direction we have been trying to get this project to go in.

Grace Chuchla, County Counsel, thanked Mr. Feeney. Grace asked the Commission if they had questions for Mr. Feeney.

Chair Kate Morley, asked Mr. Feeney that she noticed in the staff report there is reference to Mr. Shade making some progress back in September? I am curious what that progress was, and then how things got back off track, if you could elaborate a bit?

James Feeney, Building Inspector replied; On my last site visit there was trenching for underground electrical, (but in order for your underground electrical to be a pass inspection we have to be landed at either end of that electrical) just having a trench, with conduit in it, at the proper depth, does not constitute an underground electrical inspection that has passed. So with the leniency, and with the desire to see this project be successful, the Building Official and myself, decided okay, it looks like your moving in the right direction, you have started the underground electrical but it has not been landed and at this time we have not been called out there for any further inspections. And I do believe there is email correspondence between the building inspector and Mr. Shade stating that he's planning on going in another direction with his electrical, he wants to go solar. So that would constitute a resubmittal a completely new application, so if this permit wants to go solar then we are back to ground zero. We have been extremely lenient and helpful is all I would like to say.

Chair Morley thanked Mr. Feeney for his information and returned the questioning to back to County Counsel.

Grace Chuchla, replied at this time I would like to allow Cathreen Richards the Planning Director to provide some information and testimony to the Commission about the Planning Departments interaction with Mr. Shade and Shade Grown Farms.

Cathreen Richards, Planning Director started her testimony. I was the Planner who took this CUP to the Planning Commission for approval back in February 2019. It was approved with those particular conditions. This is a very common condition that the Planning Department puts on our projects that's because we want to make sure the applicant builds appropriately to Building & Safety standards, usually Environmental Health department standards as well. This is a way that we ensure that projects are approved by the Planning Commission are constructed correctly. I spoke to Mr. Shade after his was approved for this and told him he was going to need to work with Building & Safety Department and at that time the Environmental Health Department to work on the conditions they were going to need done for this project. So he was told that day after the approval that he would need to do that. So after that we did not really hear much more about this until last summerish where the Building Department let me know that Mr. Shade was not there without the benefit of appropriate permits, and that he had put various structures on the property without those permits. So we did go and prepare this violation hearing for September and then we were informed that he was trying to again

Get things in order, and try to commit to compliance so we continued the hearing from September 26, 2021, and you remember that from last month. We feel like the Building & Safety feels about we want to help people as much as we can, we want to try and get them to be compliant without having to be heavy handed, however that just has not worked in this case. So Building & Safety informed me again that Mr. Shade was no longer making progress and we really needed to do something about the non-conforming work that was happening on the property, because it does pose some danger to the people there and people surrounding due to poor electrical work, as Mr. Feeney described. I think that is all I have to add beyond what Ms. Chuchla has already provided you.

Chair Morley thanked Ms. Richards for both of you sharing what you had. Let's turn it back to Commissioner Discussion. Does anyone have any questions for Ms. Richards the Planning Director at this time? Is there anyone from the County that has anything to say at this time?

Grace Chuchla, County Counsel, answered at this point I think the County has presented all of its evidence. I would ask reserve the right to briefly respond to anything Mr. Shade would like to raise when he is presenting his evidence or arguments.

Chair Morley thanked Ms. Chuchla. So with that let's go ahead and give Mr. Shade from Shade Grown Farms and or anyone else that is representing him the floor at this time.

Mr. Lowell Shade said Thank you for hearing me today and I want to start by saying what a crazy year we have had with the pandemic. I apologize for my whole naïve on the whole process. I have completed a lot of the work incorrectly to residential standards as I was zoned RR2 and I was not clear on the end use of being commercial needing non-Romex wired things. Which Romex wiring in my office and bathroom were allowable in residential, not commercial code, it is not and I did not understand that. So I had done my trenches, laid my one gauge primary wire in the trench as direct burial, but after that was completed, I found out that was not allowed for commercial installation. So I had to re-dig all my trenching, re-pull the wire out and put it into conduit, which it has been done now. I am diligently working with Edison for the upgrade to two hundred amp power meters. My trenching is complete from the intake panel from my primary feed to my dispersion sub panel. My next step is the bathroom. The office and the bathroom that I constructed needs to be removed because it is the place the new bathroom will be constructed. I am going to simply construct a 10 by 10 bathroom as I wasn't directed to the office, so I need the guidelines and stay compliant. I am having trouble getting the office removed at this time. There is a trucking shortage and a truck large enough to move the bathroom has been very difficult to locate. So I am working on that time constraint. I am diligently working with Edison to go from the transformer to my panels, and that is on their timeline. I am working with Mary Sedgwick the Planner for Edison and I am on her timeline, and the mercy of her timeline and design plan. James Feeney has been very helpful in the last 45 days. During the pandemic, we were given the stay at home orders for over 180 days this year, it was limbo never in my lifetime encountered. It felt like the world was ending. We were told to stay at home, and work was not being done, just waiting for the world to end. I want to absolutely stay in compliance and do my

best to fulfill the obligations for my CUP that I am required to do. I am asking that the board to give me time to do that, another 45 days and I will have the bathroom constructed, and my power should be completed. The power is on the timeline of Edison, I am not seeking to go solar completely. I am trying to add a secondary the Conex box solar power I am trying to add that as a secondary backup power for when we have power outages. Not as a primary source of power. My primary power will be from Edison. On Mr. Feeney's initial visit I did remove all the hazardous wiring that he had mentioned. I hooked up the office for him to inspect not knowing what I was doing was wrong, and I immediately unhooked it, like I said it was only hooked up for the inspection so it is no longer a danger to anyone. The green houses are running off of a 50 amp sub panel from my barn as a temporary power source and I am working with Edison to have that corrected and removed as soon as possible. As soon as they supply me a line from the transformer to my intake panel I can remove that. I can give you the contact information to Mary Sedgwick, which I have given this information to Tyson and James so they know I am legitimately working with them and it's their timeline, I am not working on my own. I absolutely want to meet all the requirements that have been laid out for me and I am working towards that goal and I pray that I am given a small extension in time. The 180 day stay at home order would be more than sufficient to finish my project I believe unless there is some issue with Edison but I don't foresee any problems there. I hope that the board can show goodwill and give me the opportunity to finish my project to completion. To have all the work not be done for nothing and we are so close. I want to work closely with James and Tyson to do as they are requiring and requesting to get this finished and off the boards table.

Chair Morley thanked Mr. Shade for his comments and is there anything left you want to say before commissioner discussion?

Mr. Shade said he will just go to questioning and I look forward to answer their questions they have as I am working hard to complete this.

Chair Morley answered great, thank you. Now let's turn to Commissioner Questions at this time.

Chair Morley asked I believe we have heard an allegation that you may have been cultivating cannabis and maybe still are cultivating cannabis. Can you respond to this?

Mr. Shade yes ma'am I have had multiple State inspections from California Cannabis Control and have been working with them and their compliance. I have passed their inspections; I have had inspections from Inyo-Mono Agriculture, which I have been passing. It's just the Building & Safety that I am lacking in due to the naiveté to the process and the initial improper following the residential code building code and not the commercial; I was not clear on the end use regulations. I thought I was zoned Rural Residential 2 building code not in use commercial code that was my bad and I am now following commercial code doing things properly to complete it as fast as I can.

Chair Morley thanked Mr. Shade for answering her question.

Commissioner Lanie Sommers wanted to ask the next question, Thank you Kate. I guess I am just concerned because it would appear that staff has reached out to you and provided you with numerous opportunities to clear up some of these issues with just one inspection being passed. Can you help me understand why it is with all these opportunities you were not able to do so?

Mr. Shade answered well my corrections started at James's visit when he said I was out of compliance. Since then I have been diligently working towards correcting the issues that he pointed out at that time. The fire issues were the most important so I immediately unhooked what he said was dangerous and started work on digging up the wire that I direct buried not in conduit and placing it in conduit. I have addressed most of the concerns of the CUP requirements, the office and the restroom as best as I can, it's just the timing issue to have my office moved from the spot it is in, so I can have them come and inspect the foundation for the 10 by 10 bathroom. I can have a temporary Sani hut placed on site to accommodate for the bathroom for myself since I am the only employee using the restroom and I live in the neighborhood so I use the restroom at my home, but to have a bathroom on site, I can do a temporary Sani hut for a month until my bathroom is constructed. On the power it is just I am on Edison's timeline now waiting for them to do design submittal.

Commissioner Lanie Sommers thanked Mr. Shade for answering the question. Would it be possible to ask staff relating to the comments received?

John Vallejo, County Counsel answered yes.

Commissioner Lanie Sommers asked can you tell me when the last site inspection was?

Cathreen Richards, Planning Director answered "I believe that question was to you James".

James Feeney, Building Inspector answered the last time I was out there was September 1, 2021.

Commissioner Lanie Sommers answered so no inspections have been attempted since from our last meeting to this meeting? We are not able to verify this statement.

James Feeney, Building Inspector answered that is correct.

Commissioner Lanie Sommers thanked Mr. Feeney for his answer.

Mr. Shade answered he had sent photos to show the progress of work to James and Tyson.

Commissioner Lanie Sommers asked if staff had received those photos.

James Feeney, Building Inspector answered yes I have received those photos of where trenches where underground electrical would be placed.

Mr. Shade answered then he approved it for me to fill the trenches back in and now they are full and complete. I drove to Furnace Creek in the beginning of October to meet with James to give him an update he was going to come out to the property but we ended up meeting at Furnace Creek to help with his time constraints on his way home. I have been trying to keep James and Tyson both informed of the progress.

Commissioner Lanie Sommers thank you I have no further questions.

Commissioner Callie Peek asked the next question. If he completed all the things he says he says completed should any of that been inspected before he moved on to the next step?

Cathreen Richards, Planning Director answered “I believe that question was to you James”.

James Feeney, Building Inspector answered we would have to see the wires landed in the two hundred amp panels in order to considered an inspection that would pass. So without observing that on site we are not going to say the underground electrical has been completed.

Commissioner Callie Peek asked is that something that he should have requested an inspection before this meeting.

James Feeney, Building Inspector answered that he does believe there was an inspection requested and I don't have the date, this would have been Tyson's visit out there. I do know that there was a communication between Tyson and Mr. Shade that he wasn't ready for an inspection and so Tyson did not continue to drive out there. He was already in Death Valley but I believe he was called off of that inspection.

Commissioner Callie Peek asked Cathreen Richards, Planning Director if we did the recommendation to revoke the Conditional Use Permit mean that he would have to start from ground zero, to continue this project?

Cathreen Richards, Planning Director answered yes he would have to start over if he wanted a Conditional Use Permit. There are also ramifications to the Cannabis licenses that I think that our Agriculture Commissioner is on the meeting.

Nate Reade, Ag Commissioner, in Inyo County to receive what is called a local authorization through the state licensing system you need to have to have both a Conditional Use Permit as well as Commercial Cannabis Business License, and so you have to have those two components to even be eligible for a State License. If the CUP is revoked I believe it would trigger a condition on our business license side as well it to start the revocation process of the business license, but it would also remove Mr. Shades local authorization to receive a State License, so there are defiantly implications there.

Mr. Shade commented which I currently hold a state license and it would make all that go back to ground zero.

Commissioner Lanie Sommers apologized for the bluntness of it but why haven't you request an additional inspection within the 30 time frame from our last Planning Commission meeting and now?

Mr. Shade said it was unclear on what the completion was. I emailed James and Tyson asking what the goal was. Is there a line that I needed to meet, to get another extension? Did I have everything finished in 30 days? Because due of Edison timeline I could not do it with the one 30 day extension that was given until today. So I have been constantly, diligently, working with SCE on the power situation.

Commissioner Lanie Sommers can you help me understand the power situation sir?

Mr. Shade said okay there is a transformer across the street that I have to trench under the street to a pole box. We had to find a pole box that was out of stock all across the country. I finally found one from a manufacturer, drive to Corona California and get the box, pick it up, and get the box ready for Edison. With the box in Edison could start the design plan, on the inside of my property the premises that work from my intake panel to my sub panel has been completed. I just had to basically dig up the old wiring, put the wiring in the conduit then put it back in the ground, I had to do the same job twice, due to my ignorance of direct burial and the commercial code, as Mr. Feeney stated the California Code are quite difficult to understand if you are not well versed in it. My naiveté caused me these issues. I have since learned and now on the right path, actively working diligently as possible to get it finished.

Commissioner Lanie Sommers who inspected the wiring in the ground? James Feeney.

James Feeney, Building Inspector answered no we have not seen the landing of any wires In a 200 amp panel, I did mention that I did observe via email photographs the conduit and the trench, but that does not constitute an underground electrical inspection we need to have the wires landed in order for us to say this is a completed project here.

Commissioner Lanie Sommers asked Mr. Shade what is the hold up with Edison and landing the electrical in the panel as described by James?

James Feeney, Building Inspector asked if he could make a comment or if it is appropriate.

Chair Morley answered and said to go ahead.

James Feeney, Building Inspector living up here in the North County you guys, Edison south of Death Valley is very challenging to work with. They are very slow, I will say that.

Mr. Shade thanked James for this input.

Commissioner Lane Somers asked so how does SCE related to the Inspection and completion of the project?

James Feeney, Building Inspector said he could answer that if you don't mind me interjecting. Edison will not hook up their power until the County has given the approval to release that power. We have not been called down there to look at the panels in order to release the power to Edison. Edison won't come out until we give them the approval we have not been asked to come out to give approval we are not at that stage.

Commissioner Lanie Sommers Thanked James for his answer.

James Feeney, Building Inspector said if we are then we don't know that.

Commissioner Lanie Sommers said so what I am hearing is the wiring has been installed in the ground, that the additional work hasn't been completed for you to be able to inspect and approve Edison? So we are not waiting on Edison, we are waiting on the applicant, is that correct?

James Feeney, answered we are waiting on the applicant in order to approve the underground electrical and release the power to Edison.

Commissioner Lanie Sommers so hearing that Edison is a delay is in fact probably true, But actually the applicant is responsible for this portion of the delay, because Edison can't complete its job until the applicant has completed his. Is that correct?

James Feeney, answered yes.

Mr. Shade explained that they are waiting on the Edison Design team to draw up plan. I had an issue with the separate lots, because there is another tenant there that holds license that's the second 200 amp panel that's being added and I was having an issue with an address for them. Edison will only install two meters per property. Edison was having issue with the third meter and I had to work with the County and Planning to actually add a second address for that second lot so Edison was even able to add the third meter, so that has been done, and that was part of my timeline that took up time in the last 30 days Was getting a valid new address added to my parcel for Edison to even start a design on, that's now done.

Commissioner Lanie Sommers but if I might suggest, what I am hearing from staff is that you have had ample opportunity to install the panel, to accommodate the wiring in the ground to receive an approved inspection which would have avoided all of this. Have you installed that panel?

Mr. Shade answered yes ma'am.

Commissioner Lanie Sommers asked then why did you not call for an inspection?

Mr. Shade answered I messaged Tyson and James both last week asking what the mile marker was that I needed to satisfy to not be revoked today, and I never got a response from them. Knowing that today Wednesday's is usually the day they come out for inspection, I would have had an inspection today but it's this meeting. So I am ready for inspection to show the power is terminated at my entrance panel and at my sub division panel.

Commissioner Lanie Somers asked if James could respond to My Shade's comment.

James Feeney, my response is we would get out there as soon as the request has been put into the Building Department. I did not receive an request for an inspection. Tyson is at a continuing education conference mandatory this week, so I would have to consult with him on that.

Commissioner Lanie Somers said well I am a little uncomfortable revoking someone's license if a request has been made and just for whatever reason, time, Wednesday's whatever, that we have not been able to complete the inspection. Mr. Shade do you have proof of that email?

Mr. Shade answered yes ma'am. I can forward it to you. Well I don't think it would be appropriate to forward it to me. I am not quite sure what to do? Cathreen?

Cathreen Richards, Planning Director deferred that question to Grace. I think that was more of a legal question.

County Counsel lost power at the COB building so we will take a 10 minute break to allow the power to be restored.

James Feeney, Building Inspector, interjected and said he found an email from Mr. Shade that explains details about the property on October 24, but does not request an inspection.

Commissioner Lanie Somers asked has he indicated in the email does it say that he has installed the panel.

James Feeney, Building Inspector, yes it states that he has finished up the run of conduit and cable from his subpanel then is goes on about Edison and issues with the pull box with the neighbor, but nothing about asking when we are next available to come out for inspection.

Commissioner Lanie Somers but he has indicated he has finished the work. Correct?

James Feeney, Building Inspector, ya it doesn't indicate that we are landed in the panel or not so it is a little vague.

John Vallejo, County Counsel, clarified that this has been over 2 year to comply, not if in the last 30 days there has been an inspection. There are three options you have, to revoke the CUP, to extend the time for an inspection, or continue the hearing to a later date.

Commissioner Scott Kemp, asked Cathreen Richards, Planning Director In the staff report it says Mr. Shade has had two years to get into compliance is this much longer than most applicants get or receive?

Cathreen Richards, Planning Director answered yes, it is quite a bit of time and it has been since February 2019. We were informed by Building & Safety that he is not meeting his building requirements. Building & Safety try really hard to work with applicants but when it comes down in the end we have to make sure we are meeting our requirements.

Commissioner Kemp thanked Director Richards. Then asked Mr. Shade you asked the Commission to give you an additional 45 days, and I just wonder why over 600 days was not adequate? You stated that 180 days were because of the pandemic, I am just wondering why now in 45 days would allow you to come into compliance when you have had over two years?

Mr. Shade answered I believe in 45 days we can finish the project because I am now going in the right direction. For the first year I did underground work for RR2 building code and was not aware that my in use required commercial codes to be followed during construction. So now that I am aware of that, I only became aware of that after James's first visit which was October first, so really I have only been performing the correct work since let me correct that September first. I feel that doing the work and then undoing it and getting the wiring completed I am making leaps and bounds and working it get it finished now I know what to do correctly. I know better so I am doing better. I apologize that my naiveté lead me for one year in the wrong direction, and it was during the pandemic where we were order to stay home, the majority of last year I was unaware and not know while doing the work. I am now doing the correct work and will have it done to code as soon as possible. I believe 45 days I will have the work done on the inside, I cannot say as to Edison's timeline when they will supply power to my meter, but all the work on my property will be done. After this meeting I will immediately send an email requesting an inspection with James at his earliest convenience. I want to do right by you guys and being awarded the first license in Inyo County there was no guidelines, no map to do this has been a learning process for all involved as we go along with this facility. It has been taxing, there are a lot of entities, multiple inspections from CDFA, Cal Cannabis, and I have had a lot of inspections, I just missed the County Building & Safety inspections and I wasn't sure what to do there.

Commissioner Scott Kemp answered, I can appreciate that and from speaking from myself and I am sure the Board and entire County we want to do right by everyone. In my report it is stated that staff has offered help numerous times, I am wondering did you not take them up on the help?

Mr. Shade answered until that first inspection I did not know anything was wrong.

I have been a resident of Eastern Inyo County for over a decade, and going through the Charleston View building process there have been a lot of distance problems. For years here we have done the work and then taken a picture and send it in. That has all changed now and becoming correct with regular inspections and it has just been a learning process correctly in the beginning. Since meeting with James in September, I am very aware of the process and I have fully put 100% into working with James and Tyson to make this work, I did not take them up on their offers of help in the past year, but since I have made contact and found out I was doing things incorrectly I have absolutely asked for help, more help than I should have been asking, I have been bugging them pretty good. I want to continue staying on focus until it is done. I believe 45 I will have the issues that we have right now on site will be corrected for sure. I will have the bathroom constructed as fast as possible. I will then apply for a building permit for my office at a later time. I am trying to stay in compliance to keep all of my efforts from not being in vein. A Revocation of my CUP would cause tens of thousands of other licensing to be revoked and back to zero would be devastating.

Commissioner Kemp thanked Mr. Shade for answering his questions.

Commissioner Lanie Somers asked when they submit for permits don't they usually get their zoning. Isn't there somewhere that told him he was commercial and not R2?

Cathreen Richard, Planning Director answered yes. He actually is still Rural Residential, What a Conditional Use Permit does is allow him for a use outside of what is outside his principle permitted in that zone. In that area in Stewart Valley we do allow for Cannabis Cultivation in that particular zoning designation but with a CUP it makes it commercial kind of. Mr. Shade was told after he got approved for his CUP he needed to work with the Building & Safety Department to make sure he was building things the way he needed to. I don't believe we said to commercial standards, he was told he needed to contact them immediately to find out what it was he needed to do to construct his stuff correctly.

Commissioner Lanie Somers said so there isn't a piece of paper that says this is what you need to do, it is left to the applicant and it's verbal there is not a clear pathway for him to understand in writing.

Cathreen Richard, Planning Director started to answer and Commissioner Somers quickly said I am not challenging you please understand that, it is not my intention.

Cathreen Richard, Planning Director said we expect the applicant to know what it is they need to do if they are going to go and construct something, or start a business we kind of expect them to know what they are doing when they are applying for these things. We don't have handouts for you are rural residential and all of a sudden you can do a commercial use you need to follow these building standards, that is outside our purview of the Planning Department, and secondly we expect them to know that.

Mr. Shade said he did not know that and he thought I was building to my zoning which was rural residential, not my end use. I have been recently been enlightened of my end uses and that is the code I am using now to build to, and will stay diligently working to Complete my end use of commercial code.

Commissioner Lanie Somers asked if Counsel has any comments with regards to the statements we have just heard.

Grace Chuchla, County Counsel asked if Commissioner Somers was asking Her attorney John just for some legal clarification or would you like to hear legal arguments from me the attorney for the Planning Department?

Commissioner Lanie Somers answered she would like both.

John Vallejo, County Counsel answered before we get into legal arguments we should probably make sure that we have all of the testimony we expect to hear with the facts, just to make sure we are not going to have new facts coming after this, and I know we still have not taken any input from the public so we should probably do that. But with regard to my input the big picture is essentially the same as I mentioned at the last comment I made in terms of once available to you the terms of evidence once you have the decision parameters you have all still applies.

Chair Kate Morley said she had one question for Building & Safety. We are talking about the electrical compliance, is that the only issue on the table, but what are the next steps to compliance, in other areas plumbing, roofing, ect, ect. What steps are potentially coming next? I am trying to figure out if we clear after this hurdle are we good to go or if this is this step one of twelve?

James Feeney, Building Inspector answered it wouldn't be 12 steps and I cannot tell you if we have cleared that hurdle until I get out there and put eyeballs on the electric. One of the issues of the required bathroom is it was built without the benefit of any plans for the building department to review. If we had been given a set of plans that said I am going to build my required bathroom in this way, we have rejected those plans and then we would have instructed the applicant, here is why your plans were rejected, and here is how you can build this bathroom accordingly. What ended up happening was when I went out to the site the bathroom/office had already been constructed and all aspects of the construction, plumbing, electrical, etc., none of that would meet building code. Residential, commercial regardless, it was constructed improperly. So if we had been given a set of plans we would have given him corrections, it didn't go down like that. That's another one of the issues.

Chair Kate Morley asked if submitting plans is optional or something you have to do.

James Feeney, Building Inspector, answered something you have to do, we have to have plans for everything except paint and carpet.

Chair Kate Morley thanked Mr. Feeney and said that was her only question.

Mr. Shade answered that he had elected to remove the office/bathroom already constructed. To just build a bathroom that I am required to build per the CUP, and if given the opportunity to stay on a short leash and work with James, I feel we could finish it quickly.

Commissioner Lanie Somers stated for just one quick clarification. So the first time staff was out on this property, eyes on property September 1, 2020, is that correct?

James Feeney, Building Inspector answered no. That was the last time I was out there. My first visit was early August of 2021. That is when I went out there and observed the bathroom/office. Informed Mr. Shade that it just wasn't going to fly, it was a good attempt but was not ever going to meet code. So then September 1, 2021 was the second time I went out there to take a look since I was already out there, to take a look at the open trench and some of the other requirements for the panels, and the ground rods, ect. But like I said the open trench with conduit does not constitute a passing inspection.

Commissioner Lanie Somers answered so it is conceivable and there is nothing here indicating that or refuting anything anyone has said that Mr. Shade has operated incorrectly under the assumption that has been required to provide work based on an RR2 code and that Mr. Shade good bad right or wrong otherwise did not contact the County to see what he was actually supposed to be building and that none of this came to light until Early August 2021? Is that correct?

James Feeney, Building Inspector, answered yes that is correct. They first observation the bathroom/office took place and as I mentioned earlier that there is no aspects of it that meet California Building Code.

Commissioner Lanie Somers and you guys had been requesting from Mr. Shade some type of something for an approval process prior to that?

James Feeney, Building Inspector, the submittal of plans is part of the permitting process and we have provided prior to of issuance, during issuance and after the required documentation for a permit, which includes plans for construction.

Chair Kate Morley asked if there were any more questions from Commissioners. With no answers Chair Morley opened Public Comment at 12:12 pm.

First to speak Linda Chapman, I live in the fourth district and I am here for a different item, so this is the first I have heard of this project and I have listened to the dialog and I guess the question that come up in my mind is it sounds like the applicants stated purpose was a commercial business and he seemed to be very confused about building, and I am not familiar with the different requirements for zones since I live in town, but as an average person I would presume that when people build stuff no matter where they are in the County, that they would need to submit plans, like some of the agenda plans, where

there was a map and the driveway is and all this is going to happen. I guess I am surprised that this particular applicant seemed to be very confused about what he was supposed to do. Was there no request for a project plan before he got started or did he just never get to that part and decided to build anyway? I am a little confused, but I am guessing he is not the only commercial Cannabis grower in the county, and as a citizen I would like a little more control over how these businesses are going to go forward with their business in the county. Whether it is residential or a rural area, so I am a little dismayed that this person has been so confused for so long and that he has built some stuff that was not up to code, and now he has to undo it and it's, so I guess it's just an interested but disinterested member of the public, I don't know this man, I don't know his business, I would like to see more control over what he is doing, and it sounds like from my perspective that County officers have tried to do what they needed to do on their end, but not met with a lot of cooperation from this particular person. So whatever you decide to do to this person, I would like to see more of a plan before they start their project, submit their plans and so they have a pretty clear idea what they need to do before they turn the shovel in the ground. So that is my perspective. Thank you.

With no one else wishing to speak Chair Morley closed public comment at 12:17 pm

Commissioner Lanie Somers asked Mr. Shade can you describe the type of planning process you have engaged in?

Mr. Shade answered as the same time was going through Planning I was going through State Licensing, so we had to submit site plans, we had to submit cultivation plans, we had to submit hazardous materials storage plans. I have extensively submitted plans. The office and restroom were an area of confusion as originally I was told that I didn't need a permit and to file the office/restroom if I left it a movable structure not attached to a foundation. Which finding out later that structure is not allowed on commercial so that is why it has to be removed because it has to be on a foundation.

Commissioner Lanie Somers asked Mr. Shade where he got that information from whom?

Mr. Shade answered from Tyson Sparrow, but that has been an argument debate over the last year, as he said he never has said that. Which is fine, I am willing to completely remove the office and build a stand-alone bathroom. I would have forgone building a \$10,000.00 building if I had known it would not be allowed in the end. That is my fault, My pocket took a hit for that. I want to do it correctly, I just asking for the time to do it correctly and be in compliance and not lose my business. And I am will to have a tight leash on me by the County, I will call in every day and I send pictures to James of my daily progress and the county if you would like. To show the County that I now know and doing correctly and I apologize deeply that I spent a year spinning my wheels going in the wrong direction.

Chair Morley said since no one else has any questions or comments let's close the public hearing at 12:18 pm.

Grace Chuchla, Deputy County Counsel started her closing arguments. Mr. Shade with all due respect, and not attempting to lay blame here or anything, seems to have made a series of errors in his interpretations and understanding of the required codes. While the County is sympathetic to Mr. Shade and would like to assist him in rectifying these errors I think your Commission has heard extensive evidence on how the County has attempted to provide that help and has attempted to send him down the right path however the very large amount of help the County has given Mr. Shade, he has yet to be able to operate his business, and construct his structures with the building code. Again with all due respect, it is the Counties position that some of the errors Mr. Shade has made are just not errors that the County can really look past, or that are reasonable errors for an applicant to make. Dealing with the Cannabis business is a highly regulated, extremely complex field. Anyone who wants to go into this field needs to have the ability or skills to interpret and comply with codes or obtain the assistance of someone who has the ability and skills to interpret and comply with codes. Unfortunately, it appears Mr. Shade has not done that, and accordingly he has made numerous errors in his construction, as I have said we have tried to assist him in rectifying his errors, this has been an ongoing problem for approximately two years and at this point the Planning Department does not feel that it is beneficial to provide Mr. Shade with additional time. The past is an indicator of the future and based on Mr. Shades past actions the Planning Department does not feel that more time will really produce any meaningful results here. While the Planning Department and the Building Department are appreciative to Mr. Shade's offer to be on a short leash, that is not a feasible option and resources in the County are limited. The County cannot oversee Mr. Shade on a daily basis. It is expected that applicants of both Cup's and Building Permits can be self-directed up until a point when they request an inspection. In short the County does not have the ability to babysit Mr. Shade on a daily basis for the ongoing future and so for that reason the County really believes that there is no pathway for here but to revoke Mr. Shades CUP. While it may seem harsh the Planning Department believes that there is absolutely sufficient evidence to demonstrate that Mr. Shade violated condition 3 of the CUP which as a reminder requires the construction to be done in compliance with the building code and also requires that lawful use be commenced within one year. Neither one of those things have happened and accordingly in order to protect public safety and order to insure that we just don't keep seeing this litany of errors coming out of Mr. Shades property the Planning Department feels that we do at this point need to revoke Mr. Shades CUP and to cease his operations, until he can put together another application that sufficiently demonstrates his ability to comply with the California Building Code.

Chair Kate Morley thanked Grace Chuchla for that brief summary. Let's turn the floor over to Mr. Shade.

Once again I apologize of my naivety in the process, like I said, once I knew better I have doing better. I had put all my efforts into residential code installation of my power and I was wrong. I know better now and I am doing better I am actively working as hard as possible to get it to get it completed as fast as possible. I am not asking the County to babysit, but I am asking for more time. Once I was given a list of deficiencies to repair I was given 30 day of extension and it simply was not enough time to complete, the time

constraints with Edison that are out of my control. I have completed the tasks on property to remove the safety issues. There is no bad wiring hooked up to the office. The office is completely hooked up; all the issues that Mr. Feeny had mentioned about the power have been corrected. I am diligently working to do as he has requested that is required to do, and if given the opportunity to have him come and inspect the termination to my subpanels. I believe that we will quickly be on a path to the completion and the sign off of my project, but if stopped today that turns the project into something completely different and cause extreme difficulty. I feel that without causing the County any burden I can quickly get all the matter taken care of quickly if given a small time extension. I understand that it has been a long time that it's been over a year, but it has been a year none of us have ever seen. Watching family members die in the hospital due to breathing diseases hooked to respirators and feeling the world was coming to an end and being told by our County to stay at home. It caused extreme hurtles to be overcome on businesses who couldn't just stay at home, and turn the lights off. I have diligently, since I have found the correct information on what I was supposed to be doing on commercial code that I needed to meet and satisfy, I have been performing commercial code compliant work and I will continue if given the opportunity to quickly finish this project. With no more delays, I am working closely with James and Tyson and would love them to come out for the next inspection as soon as possible. I don't want to be a black mark against County and a lost business license. My intentions are honorable, I swear.

Commissioner Discussion the first Commissioner to speak was Todd Vogel. I am skeptical that Mr. Shade is going to pull this off. I buy the argument he has presented about the last year. I think he went out the gate two years ago very naïve with all sorts of things he could have done to help himself. The Planning Department and Building Department have been bending over backwards to help and that is true. He could have hired a contractor who was familiar with the building codes, I think there are all kinds of things that could have been done or should have been done but they weren't. It is true the last year has been disruptive and the supply chain issues are legit, I hope someday we can be where we can't throw out the pandemic as an excuse and that day will come. With my business the supply chain issues are extreme and we have customer that are industrial customers for climbing gear and hardware and some of that stuff cannot be had for any price, so I do believe he did have difficulties finding those things. All that said I would find a way to continue that hearing or have some sort of approach where if X number of days passed, there is no need to have the hearing again, the Condition Use Permit is void. I think for a practical stand point the Planning Commission in reality does not meet again for 45 days, that is as good as a 90 day extension because we don't have December meeting.

Cathreen Richards, Planning Director made a comment that there is an early December meeting.

Commissioner Todd Vogel answered that's right an early December 8th meeting. If Mr. Shade thinks that is something he can work with, and again I am recognizing that the departments have been bending over backwards, but if he can get it done in 45 days that is what I would entertain.

Commissioner Lanie Somers stated that her comments reflect Todd's comment. For me I am very pleased with the amount of work our staff has done to try to help and move Mr. Shade along. Quite honestly, if there had not been the email that was sent last week, I would probably support Grace's comments, but because significant work has been done and there was an email and he states he is ready for inspection which is really the only thing he has to do right now, and he should be ready to do next week, that I would be willing cause of COVID has been devastating for all of us, and so you can basically wipe out a year. In that year he has been operating under the assumption he was RR2, and our staff was out there in August and brought him to awareness and I do realize there is a level of accountability and responsibility on his part, then again there is a reason that we continued this 30 days. If that email was not sent I probably would feel less likely to extend any courtesy to him but I thing given this circumstances and email I would be inclined to agree with Todd, and offer him the extension until our December 8th meeting, and at that point if he did not comply completely we would revoke his CUP at that time.

Cathreen Richards, Planning Director stated the feels she needs to but in and actually request that the December Planning Commission be moved to December 1st. I was waiting until the end with this discussion, but if that has any bearing on Commissioner comments here, I thought I had better throw that out there.

Commissioner Lanie Somers answered given the testimony from Mr. Shade he should be ready for inspection next week, and if not he has deceived us and it does not matter if it is December 1st or whatever. That date works much better for me, anyway.

Commissioner Callie Peek I do have a question and I don't know if I missed the opportunity when Lanie was just talking it made me think about it. With the original CUP He had 190 days to meet within the certain amount of days, within the original CUP to meet requirements.

James Feeney, Building Inspector answered, He had 180 days is the code.

Commissioner Callie Peek and his original CUP was done in February of 2019?

James Feeney, Building Inspector answered, Yes.

Commissioner Callie Peek asked that was one full year, before the pandemic started? So he was out of code before that happened?

James Feeney, Building Inspector answered Yes.

Cathreen Richards, Planning Director tried to speak but audio was not working.

Commissioner Callie Peek answered I am assuming he had several extensions along the way but he has been out of compliance since before the pandemic? Cause his main argument for the extension was now is the pandemic put everything on hold for a year

when he was out of compliance for half a year before the pandemic even started. That is just why I am trying to get clarification of.

Cathreen Richards, Planning Director are you asking about the timing on the Conditional Use Permit or the Building Permit?

Commissioner Callie Peek so there is multiple.

Cathreen Richards, Planning Director answered Yes he has one year to effectively begin The use he was granted under the CUP or it is null and void basically. So if that was what you were asking about, it was one year. Then once he started the building permit process it is 180 days on the building permit.

Commissioner Callie Peek asked so when did he submit the building permit process? Did he start that during the CUP process?

Cathreen Richards, Planning Director answered while James is checking that, as far as we are concerned if he is working with the Building Department and doing everything appropriately we are going to be okay with that, as far as our process is at. However, I don't believe this has been the case.

James Feeney, Building Inspector answered so it appears on December 11, 2019, was when the building permit was issued. I did not go out to do an inspection until August 2021.

Commissioner Callie Peek That was when your first request for inspection was?

James Feeney, Building Inspector answered yes that is correct.

Commissioner Callie Peek thank for clarifying that.

Commissioner Scott Kemp had a question. I hate to set a precedence here, where we allow people to ask for more time when they have received ample in my opinion. Thank you for clarifying those questions Callie. It is difficult for me to understand, and I am naïve about numerous things, if I am going to start a business like this one I would be in contact with the County right away and have them out as soon as possible. Granted everyone is different, this is just how I would handle things. Also, when they went out to inspect James mentioned that there were numerous things wrong, obviously the applicant thought he was doing it right and he wasn't. So for me I don't want to sound harsh but it would be difficult for me to give an extension of 45 days for this one. That is where I am.

Chair Morley thanked Commissioner Peek about the timeline I really appreciate. For some of the permitting issues only, it's reasonable to me that the permit was requested in December 2019, and then 2020 was the COVID year, it is reasonable for me to see why there is substantial delays there. I would have liked to see some faster movement this summer, particularly this past fall. Once Shad Grown Farms was in regular contact with

Building and permitting particularly after it came up as a violation hearing last month, I would hope that would really kicked Shade Grown Farms into gear to make sure all the ducks are in a row. That if there was past issues and past delays that they were rectified in a timely manner in some ways I feel there has already been given an extra chance from my perspective. I feel we have focused a lot of our conversation on the electrical compliance, which I agree that is a substantial issue; I also have some major concerns with the fact that Shade Grown Farms is not allowed to engage in Cannabis cultivation yet, per the conditions of the CUP and that has been taking place. It's not about Cannabis If you had a CUP for making shoes, and he had to get all of our permits cleared and rubber stamped and ready to go in order and filed before he started making shoes. If he had been making shoes before all of that was clear and good to go, and signed off by all the County code enforcers that would be a similar problem in my mind. And so those two things together despite the year of COVID challenges are making me lean more towards a blatant violation and which I think can do a disservice to those who are in compliance. So I am really sympathetic to Shade Grown Farms, it has been a tough year, I see good energy and effort being put back into compliance this past fall. I am afraid it is too little too late for me to given the scope of the concerns that I have over all about the violation issues that has been presented today. If I think of which side of the line I am leaning on, I think right now I am just leaning on the side of the line that I would be comfortable revoking at this point. I think there is a real standard that needs to be adhered to if you are issued a CUP and engaging in a business that is highly regulated, I wish you all the best, we have a good County staff that you can reach out to and engage with to support you on the path, but I also expect you to follow the rules, and in this case I do not see that has happened. So I think that is where I am personally leaning towards now, but after hearing everyone's comments maybe I am in the minority, I am not sure. We shall see when we start with the motions, but I am comfortable with revoking at this time.

Commissioner Lanie Somers so I just want to thank Callie for her timeline because after hearing all of this it is really tough to put it all together and to be quite honest I am absolutely conflicted at this point because of the email but I do take our Counsels word as past behavior is indict ITive to future behavior and so I think I am probably shifting.

Commissioner Lanie Somers one last question this does not preclude him from reapplying, correct? He can still take all this information that he has done and lessons learned and reapply with the County. Is that correct?

John Vallejo, County Counsel answered yes, there might be a time delay. I have to look at that real quick.

Cathreen Richards, Planning Director stated I believe it is one year.

Commissioner Lanie Somers answered one year?

Cathreen Richards, Planning Director said yes but we should probably verify that, but I think that is what it is.

Chair Kate Morley stated and just for procedurally I believe that any decision made by the Planning Commission today regardless of where we land is appealable to the Board of Supervisors. Is that correct?

John Vallejo, County Counsel answered yes that is. Under commercial cannabis business license code 5.40 under section 140 subsection C, no person may secure any cannabis business license if that person has had any license revoked preceding 6 months.

Commissioner Lanie Somers said so there is a 6 month time frame.

John Vallejo, County Counsel answered there might also be something in the Title 18 because that is specific to Commercial Cannabis Business License, but we are talking about the Conditional Use Permit which is also required so Ms. Richards was just talking about the year and that is ringing a bell as well.

Commissioner Lanie Somers and he has been active in growing and sales? Correct?

John Vallejo, County Counsel that is my understanding from the testimony we heard today.

Commissioner Lanie Somers answered thank you.

John Vallejo, County Counsel said forgive me I am looking through the title 18.

Cathreen Richards, Planning Director is looking too.

Commissioner Callie Peek said she if fortunate enough to have her department right at her office and they are looking in too the Cannabis stuff. I jumped up into my cubicle and asked for help.

John Vallejo, County Counsel what we are looking at here again is the timeline for reapplying for a Conditional Use Permit that has been revoked. If a CUP has been denied, this is different than a revocation. If a CUP has been denied you cannot reapply for one year, but I am not sure if there is a timeline for a revocation. At the very least because of the Commercial Cannabis it is 6 months.

Commissioner Scott Kemp I move that we revoke CUP-2019-01/Shade Grown Farms with the findings as provided in action number one of the staff report and Certify this action is exempt under CEQA. Commissioner Callie Peek made the second.

Commissioner Todd Vogel said he would like a little more discussion. One I think doing something because we know it can later be appealed, I think it should be irrelevant whether it can be appealed. It is certainly his right to appeal if he should do so, the fact that he can do that should not influence our decision. And secondly, similarly knowing that in the future he can come back and we will find ourselves here again discussing the merits of his cannabis application in a year, I personally feel although other than

precedent I agree is an issue, kicking a can to the December 1, 2021 meeting a mere 35 days from now, I don't see the harm in that.

Commissioner Lanie Somers replied and again I am really extremely conflicted on this and had we not had an email from him from last week and the opportunity to schedule an inspection it would be very clear cut, because of that I am just conflicted.

Chair Morley said one on the things that is weighing on me is I think we heard from staff presentations there is a lot going on of course with every project deserves good time and attention but I want to make sure we are not unnecessary putting a lot of County resources into a project and so I am concerned that potentially if have a full on public hearing next time we also the will be having a lot of time a lot of discussion on staff time preparation it is a big effort. I apologize I cannot remember who but one of the Commissioners said maybe we could put a timeframe on this, such that if a certain condition is made by this date the CUP will not be revoked, if it is not met then the CUP will be revoked. I believe this would be unique, I do not remember doing this in the past but if this is potentially an option. That is something I can potentially get behind.

Commissioner Lanie Somers said she would agree with Kate. I know we do have a motion and a second on the floor but even if we have something as astringent as if Wednesday they go out to do their inspections in that area that it has to be completed and approved by next Wednesday, otherwise it is revoked at that time. Would be something I can get behind. It is only because of the email last week and some of the ambiguity that created, but other than that I would be fully supportive of the initial motion. But because of that email I am very conflicted.

John Vallejo said just for some insight on your action, I don't think you can really make that final decision if you continue this hearing until the hearing reopens. But obviously if you make a continuance and you make your posture known that if there isn't compliance by then we expect the decision to go in the direction A or direction B, but if we do continue the hearing we do have to consider any new evidence and new arguments, so we can't just say its revoke unless X because we haven't concluded this hearing yet. So that is the concern with the dynamics there but as a practical matter if you do continue the hearing and things have not happened by that hearing to your satisfaction and again the evidence is plentiful you can make a decision in either direction here.

Commissioner Lanie Somers I just feel like he had a year before COVID happened and he used up most of that entire year of his CUP if he applied for it in February and waited until December to pull his stuff, to get all this ducks in a row to find out what kind of building he had built. He had that whole year; he could have called, asked everybody in that was in the office. Once he did finally pull those permits he had three almost four months to make sure what he was creating that he was following the correct steps before COVID even hit. The three months would have been half of that time that he would have had to complete those steps. Yes, COVID was tragic and it did put a halt to a lot of things, I just feel like it's not necessarily an excuse. He had a full year of working time to get his ducks in a row and get this correct. Not knowing what level of zoning you are

building under that's something you need to make sure you have correct, not knowing what process you need to go through, that's something you need to take care of, as you are going through those steps. If he wasn't sure he should have double checked and should of made sure he was going through the process correctly all along. I do sympathize, I know I am not a builder but there is defiantly resources he could have reached out too. I just feel like if we just extend this to the next meeting we are going to be another hour or hour and a half in of discussion and why he is not as far as long as we thought he should be. We are just kicking the can down a little bit further and I don't know we are necessarily get any further. He had a month to get a lot of ducks in a row and it seems he got a few ducks in the pond but not necessarily in the row. So I just feel Like we are going to be kicking the can farther down and we will be in the exact same spot in December when we meet. I don't know if we will be necessarily and I do sympathize I am a big fan of small businesses and things like that, just the amount of effort that the county has put into this has been on the extreme side verses the amount of compliance that Mr. Shade has shown us. That is where I stand on this.

Chair Kate Morley said thank you, man, we are have some good discussions, we do have a motion and a second on the table and continuing serious deliberations.

Commissioner Lanie Somers again for me, it's very difficult, and I am totally conflicted, and for me that email from last week wasn't there, it would be a slam dunk that we would be revoking this. But because that email is there and I am not anywhere shape or form pointing fingers at staff or anything else, but it has created a bit of a gray area with regards to this situation and Callie all your words do not fall on deaf ears, I mean I was a business owner for a long time and I know ignorance of the law is no excuse and its incumbent on us to be aware what it is we need to do but I also know that 10's of thousands have been put in here and anyway as you can see right smack dab in the middle and conflicted. I thank you for their time and effort and patience as we go through this, I am hoping when it's my time to vote I can make a decision.

Commissioner Peek replied I understand your confliction Lanie that email does weigh on me too, so I understand your confliction.

Chair Kate Morley said thank you, man, we are have some good discussions, we do have a motion and a second on the table and we are having final discussion.

Chair Kate Morley as part of my final discussion, everything that Callie has just said resonates with me. COVID was an awful year and I am will to give a substantial pass and more for that. For me the thing that is weighing on me is Shade Grown Farms knew they were not approved to be growing cannabis and it's been happening over a long period of time and I see that is a blatant violation and as I consider my vote I do not think I am going to be able to let that slide, as an influencing factor, on how I intend to vote.

Commissioner Lanie Somers said and you know what Kate, I think you just helped me make my decision, thank you.

Final deliberations is serious stuff. Anyone else have comments, final deliberations, trying to move forward one way or the other? Alright we have a motion and a second on the table we have concluded final deliberations and Paula I think we are ready for a roll call vote. Let's have a recap of the motion and second.

MOTION: Commissioner Scott Kemp I move that we revoke CUP-2019-01/Shade Grown Farms 1 with the findings as provided in action number one of the staff report and Certify this action is exempt under CEQA. Commissioner Callie Peek made the second.

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

Chair Morley – Yes
Commissioner Vogel – Yes
Commissioner Kemp – Yes
Commissioner Peek – Yes
Commissioner Somers – Yes

The Motion passed 5-0 at 1:10 p.m.

Chair Kate Morley so we have voted to revoke, I am sure that is not what Shade Grown Farms as hoping for, be assured that we did deliberate hard today, we appreciate you being here today and we appreciate your testimony.

Chair Morley called for a six minute break.

Commissioner Todd Vogel had to leave the meeting.

ITEM 10: **ZTA-2021-01/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 staff report and then explained that there had been two comments on the lighting ordinance. We did received comments and these were emailed to each of you this morning and I am going to go over them as well. We received a comment from Caltrans basically stating that they do not have to follow local ordinances, but they do try to comply with them, which we heartily thanked them for. Then they indicated some confusion with the lighting districts map hopefully that confusion was cleared up after my presentation of what we were talking about in that section.

We also received comments and questions this morning from the Inyo County Dark Sky group, which I really have to begin with thanking the Dark Sky group has been super active and helpfully through this entire process developing this lighting ordinance. There were two comments from them regarding having a longer more detailed preamble to the ordinance and by that what I mean is would be a purpose and intent statement and I am going to go ahead and again try and share my screen. Can you see some writing there?

Chair Kate Morley answered yes we can see the screen.

Okay, they really felt that we should have more in this purpose statement, we can add a little bit. The comment had to do with the economy, wildlife and environment. They were asking for some pretty lengthy language there I don't know if that is appropriate here to make that section really long, I don't think we want a page or page and a half of that, but we can add some language that reference the economy with tourism and a better environment for the wildlife because lighting does effect wildlife and people at nighttime. So there was also a comment about having a cap on the total lumens per acre for certain communities. I have to say we have had a lot of ideas that were floated during the development of this ordinance during public meeting and workshops, the board did direct the staff to keep it fairly simple and direct and not to make it onerous on the public or staff, as far as following it and or enforcing them. Also, the comment included the environmentally monitoring of the Counties night time lighting was also suggested. Both of these ideas are good but they are really beyond the capacity of county staffing at this time. Instead the lighting ordinance will be enforced by monitored by Planning and Building & Safety code enforcement personnel, and the enforcement will be conducted by the Title 22 process. A general question was posed about who this ordinance applies to? This ordinance directly applies to all property in the unincorporated area of Inyo County no matter the zoning. With the regard to the City of Bishop, any tribal land or state, federal or local jurisdictions are actually exempt. Although since we are proposing to make light pollution and trespassing nuisance, there may be ways to enforce especially against really egregious nuisances, but again it will probably be a complicated process. There is also a suggestion to remove unnecessary from 18.74.050, we can remove that and it would say Protect the ability to view the night sky by restricting upward projection of light; so that is an easy enough fix if your Commission chooses to pull that recommendation forward and then in 18.74.040 under exemptions, the comment was made that the temperature in this case, I mean kelvins, that's what I showed you before, it is a measure of temperature of light they don't believe that is protective enough for light pollution and they are suggesting like 40 to 60 watts for the measurements in lumens, watts or lumens, excuse me on the code. You know this makes sense; we did not define kelvins in the definitions section. We can decide what measurement we want in lighting as we work through this process. The recommendation did come from Tyson the Building official so we would want to work with him on an appropriate lumen or wattage number for the next draft. So that is something we would work on for the next draft ordinance. Under the General Requirements under 18.74.050 3A the question is, Are these types of lights also subject to the definition of light trespass. Yes, since these are for non-exempt outdoor lighting fixtures. Under 18.74.070.8 there is a question and suggestion regarding the 150 watt lamp maximum for street lights? This is a suggestion to the comments for us to change that. Any changes we would have to send this to evaluated by Public Works Department for safety regulations and requirements and probably even our Risk Management Department. We are happy to do that, to check that and see if it can be lower. We will change it if it is allowable under all the other Building & Safety type regulations. We also had comments about DWP's current street light practices. We really cannot do much more about what DWP does, than to ask them to work with the county and the street lighting policy, and again this too would have to be ran through Public Works staff and regards to what the public would want and the street lighting meets all of the other Building & Safety and Risk Management for safety regulations. That covers the questions and comments we received prior to today hearing. We also received an eleventh hour comment from Death Valley National Park at

9:30 a.m. I did email it to you, but I did not have time to read it or evaluate it, we can take a minute to let the Commissioners read it, if not I can read it to you. Whatever you prefer? I am sorry about that whirlwind; I am actually trying to go faster than I probably should because I know everyone has had such a long day.

Chair Morley opened the Public Comment Period at 11:15 a.m.

Linda Chaplin was the first to speak. This is a topic I have been interested and involved since it has started and so I do believe in it. I would like to encourage the commission to move the process along as expo-deliciously possible. I have read over the materials that were sent through email and I feel taking into consideration from my prior experience from coming to the meetings, I feel this is a well written ordinance. I know the topic of Dark Skies and light pollution has been attempted and made possible in other communities so I believe it is entirely do able here in the Owens Valley and I think especially given the new LED lights that project light in a slightly different way incandescent bulbs. It is much easier to create a nuisance for your neighbor, that you might not be aware of. I think this will give the public a tool to respectfully ask community members to modulate their lighting so that everybody could have a good evening Dark Sky experience. I think at this time the County does not have any jurisdiction over the city is certainly true, but I would hope that the city cause it is a high light generator that they would be interested in following the Counties footsteps and I think that is actually been expressed a couple years ago, that they were more interested in that. I believe it will also be an economic driver for the area, because I know there is a whole culture of astrophotography you know sky tours in other places, I can see that as certainly a possibility especially here with our natural resources of park areas, it is totally do able in my opinion and I would appreciate your consideration and approval of moving this along so it can become part of the county code. Thank you.

Chair Morley thanked Ms. Chaplin for her comments.

Next to speak is April Zrelak, so I am with the dark skies group I want to thank Cathreen Richards for everything and all the years she has put into this, it's been this long and I do not see where a little delay would make a difference and it would help her to incorporate some of the comments that have been made, to clarify some of the issue that you have already spoke about, so a little bit would be good, we really appreciate your consideration on this, and if you just wouldn't take too long, to see this again. Also, I would like to apologize for taking so long to get comments to her, so that has put her in a bad position, since she did not have comments earlier. We are good with the delay.

Cathreen Richards, Planning Director answered not worries April.

Chair Morley thanked April for being an intricate part of this conversation thus far, and we appreciate your efforts.

With no one else wishing to speak Chair Morley closed public comment at 1:49 p.m.

Chair Morley propose that we consider what we have heard today, and consider the documents and emails submitted this morning and keep mulling this over and reach out to Planning staff if

we need to over the next month, then revisit and continue this action item at the December 1, 2021 meeting for some final ad its and review.

Cathreen Richards, Planning Director, I think you should probably make a motion to continue this to the December meeting, so it is more official.

Chair Morley thanked Director Richards as I talk through my thoughts, as Chair I am a little bit reluctant to make a motion.

Commissioner Lane Somers made a motion to continue Dark Skies until the next meeting. Commissioner Scott Kemp made the second.

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

The motion passed 4-0.

Cathreen Richards, Planning Director, stated I wanted to thank you for that, after receiving the comments this morning. I felt that I needed more time to kind of go through it and evaluate so I appreciate getting it continued a month there just was not enough time, and I think that was wise, so thank you.

Chair Morley replied no problem, I know there are technical information in some of these comments that I would like read through, I think a little more time would be good.

COMMISSIONERS' REPORT/COMMENTS –

Chair Kate Morley said that she went to a conference and would truly like to share but we are on a time limit. So I propose that I talk about the CCPCA conference at the next meeting in December.

DIRECTOR'S REPORT –

Planning Director, Cathreen Richards wanted to Congratulate John Vallejo. Marshall Rudolph retired from County Counsel and John Vallejo has been promoted to our County Counsel now and he is even at our Planning Commission today. So I want to take a minute and congratulate him and thank him for sitting in for us since Grace had to be our representative today.

John Vallejo replied Thanks Cathreen.

And then second we already pretty much established that our next meeting will be December 1, 2021.

John Vallejo, County Counsel reminded everyone that we probably need to have a special meeting just for the remote hearing issue. We can do that offline and then send out a notice for a special meeting as required by the Brown Act.

Commissioner Peek asked does that need to be within 30 days of today.

John Vallejo, County Counsel answered yes. We can do that via email.

Cathreen Richards, Planning Director answered as I recall we don't have the Public Hearing requirements just the Brown Act Requirements, so what we only have to have 72 hour noticing, is that correct?

John Vallejo, County Counsel answered only 24 hours for a special meeting, and I assume that will be the only item on the agenda.

Chair Morley thanked everyone for all their hard work especially John and Grace we appreciate you being here, hard calls were made today. So for the public who was here for the whole discussion and to the Commissioners. What was Cathreen word, How the sausage was made, this was really serious stuff. At this point, I think we almost made our 2:00 o'clock timeframe.

ADJOURNMENT –

With no further business, Chair Kate Morley requested a motion to adjourn the meeting at 1:55 p.m.

Commissioner Scott Kemp made made the motion to close the meeting.

Seconded by Commissioner Callie Peek.

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

Motion passed 4-0.

Prepared by:
Paula Riesen
Inyo County Planning Department

COUNTY OF INYO

PLANNING COMMISSION

MINUTES OF November 10, 2021 SPECIAL 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

Inyo County Planning Commission
Post Office Drawer L
Independence, CA 93526
(760) 878-0263
(760) 872-0712 FAX

STAFF:

CATHREEN RICHARDS
GRACE CHUHLA
PAULA RIESEN
LESLIE CHAPMAN
MIKE ERRANTE

PLANNING DIRECTOR
DEPUTY COUNTY COUNSEL
PROJECT COORDINATOR
COUNTY ADMINISTRATOR
PUBLIC WORKS DIRECTOR

The Inyo County Planning Commission met in regular session on Wednesday, September 22, 2021, using Zoom for our meeting. Commissioner Morely opened the meeting at 10:01 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 10:01 a.m.

ITEM 2: **ROLL CALL** - Commissioners: Caitlin Morley, Todd Vogel, Callie Peek and Lanie Somers 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.

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

Grace Chuhla, Deputy County Counsel explained that the Governor's order for meeting remotely due to COVID-19 has expired. This meeting we need to renew the Resolution to meet every 30 days. So the way it works is the finding has to be renewed every 30 days,

so the 30 day clock starts today. The problem is if you don't renew the finding every 30 days and you allow that to elapse and you wait 35 days, then you have to get together in person to make the finding to meet remotely. The problem is if we have not renewed the finding every 30 days and you notice the meeting saying we will be meeting remotely, your meeting is noticed wrong, and noticing a meeting wrong is itself a violation of the Brown Act.

MOTION: Commissioner Todd Vogel made a motion to pass the Resolution to continue meeting via zoom subject to 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 4-0 at 10:24 a.m.

Cathreen Richards, Planning Director recommended we do this again on December 1, 2021 just to buy us some more time with another meeting. Director Richards asked if we could meet before the 30 days.

Grace Chuchla, Deputy County Counsel answered absolutely she recommends any time the commission meets we make the finding, it never hurts to buy us more time.

COMMISSIONERS' REPORT/COMMENTS –

Commissioner Todd Vogel asked why he keeps hearing December 1, 2021 for the next meeting. He thought the scheduled meeting was the December 8, 2021.

Cathreen Richards, Planning Director explained at the end of the last meeting it was decided that the next meeting would be December 1, 2021, after you left the meeting early.

Commissioner Todd Vogel stated that he will not be able to be at the meeting because he has shoulder surgery the 1st.

Commissioner Lanie Somers said on the first she will be traveling.

Cathreen Richards, Planning Director explained that we had discussed the meeting for December 1, 2021 or December 15, 2021, because we are having another violation hearing and we have to have both attorney's present.

Commissioner Todd Vogel stated that must have been when I left the meeting early.

Cathreen Richards, Planning Director explained that Mr. Vallejo would not be available December 8, 2021. So we could still do December 15th, nothing has been noticed yet. We will have to have another one of these special meetings for the 30 days renewal, because our timing of the days will be off.

Commissioner Vogel said he can just miss that meeting as long as we have a quorum, I don't feel strongly about missing the meeting otherwise.

Director Richards explained now it sounds like Lanie cannot be there.

Commissioner Lanie Somers answered she can be there she is just going to be traveling so I can go ahead and make the effort if we need to have a quorum. I am sorry.

Chair Morley asked if we know if Commissioner Kemp will be able to be in attendance on the first?

Director Richards said he was at the last meeting and as I recall everyone said the first was okay, but we will double check. If there is a problem we will kick it to December 15, 2021, but that does mean we will have to do a special meeting again. We will work on that and let you know and get the information out to you so you are aware.

DIRECTOR'S REPORT –

Planning Director, Cathreen Richards explained that Shade Grown Farms that Revocation of the CUP is being appealed, and just wanted to let you know. That will be going January 4, 2021. So after all of your hard deliberations they went ahead and appealed to the Board of Supervisors.

ADJOURNMENT –

Commissioner Todd Vogel made a motion to adjourn the meeting at 10:27 am.
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 sometime in December at some point when the date is determined.

Prepared by:
Paula Riesen
Inyo County Planning Department



**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.: 6 (Action Item)

PLANNING COMMISSION MEETING DATE: January 26, 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. 2021-_____

**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 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 26th day of January, 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*

Date: September 23, 2021

To: Inyo County Local Agency Governing Bodies

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

Rc: 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.

A handwritten signature in black ink that reads "James Richardson MD".

Dr. James A. Richardson
Inyo County Health Officer



**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.: 9 (Action Item – Public Hearing)

**PLANNING COMMISSION
MEETING DATE:** January 26, 2022

SUBJECT: Conditional Use Permit (CUP) 2021-09/Coso Junction Truck Stop

EXECUTIVE SUMMARY

The applicant has applied for a CUP to continue to operate and expand a non-conforming truck stop at the property located at 20 Gills Station Road, at Coso Junction. The gas station, store and truck parking has been operating at the site for many years. The applicant has demolished the gas station and store to rebuild a larger facility with a store and fast food restaurants. The truck parking area is also being expanded and paved and will allow for overnight big rig parking.

PROJECT INFORMATION.

Supervisory District: 5

Project Applicant: Jagdeep Dhillon

Property Owner: Coso Junction Store, Inc.

Site Address/ 20 Gills Station Road

Community: Coso Junction

A.P.N.: 037-510-02

General Plan: Retail Commercial (RC)

Zoning: Highway Service and Tourist Commercial (C2)

Size of Parcel: Approximately 18.6-acres

Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Gas Station and Store with truck parking areas	Retail Commercial (RC)	Highway Service and Tourist Commercial (C2)
North	Vacant/Open Space	State and Federal Lands (SFL)	Open Space - 40 acre minimum (OS-40)
East	Vacant/Open Space	State and Federal Lands (SFL)	Open Space - 40 acre minimum (OS-40)
South	CalTrans Highway Rest Stop	Retail Commercial (RC)	Highway Service and Tourist Commercial (C2)
West	Highway 395	NA	NA

Staff Recommended Action: 1.) Approve the Conditional Use Permit (CUP) 2021-09/Coso Junction Truck Stop 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 replace and expand a gas station, store and existing truck parking at a property located at 20 Gills Station Road at Coso Junction. The gas station, store and truck parking area have been on this site for many years. Currently, the applicant has demolished the gas station and store and began the construction on a larger facility. This will include a larger store and restaurants, as well as, an additional 60-parking spaces for big rig trucks. Overnight truck parking will be allowed. Some big rig parking has been occurring on the site in compacted dirt and gravel parking areas that have existed for years. These same areas will be paved and striped to accommodate the overnight truck parking.

Inyo County Code Section 18.78.240 - Nonconforming Uses—Changes states:

“No nonconforming use shall be enlarged or extended so as to occupy a greater area of land or of a building than that occupied at the time it became a nonconforming use.”

This building and the parking areas fall under the provision of 18.78.240 that states a nonconforming use shall not be enlarged or altered without a conditional use permit; and

therefore, a conditional use permit approved by the Planning Commission is required. Since this is an expansion of the current use into a more obvious and larger truck stop, which is allowed in the C2 zone with a conditional use permit, it is an appropriate request and meets the requirements of the Inyo County Code. This project may also help to decrease the big rig truck parking in neighborhoods located along Highway 395 by creating an appropriate place for the drivers to stop and rest.

The general project area is adjacent to the north lane of Highway 395 and just north of the Cal Trans Coso Junction rest area. The greater area is vacant, open space, lands (vicinity map and site plan are attached).

General Plan Consistency

The goal of this project is to allow for an established non-conforming use, parking, and truck stop on the site, to be enlarged and continue in compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Retail Commercial (RC) in which it is located, as it allows for commercial, retail and service uses. It is also compatible with the General Plan's Economic Development Element's Goal ED-1: Business Expansion that states: *The County shall encourage existing businesses to expand their own capacities.*

Zoning Ordinance Consistency

The C2 designation allows for truck stops as a conditional use. This is an established non-conforming use at the site and the applicant is seeking the use permit to continue to operate and expand the truck stop in compliance with County's zoning ordinance. The proposed new gas station, store and overnight truck parking are expansions of the use that has been on the property for years, although at a much smaller scale. The Inyo County Code requires that any changes to a non-conforming uses be approved by the Planning Commission. By acquiring the CUP the applicant is creating consistency with the code.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the Common Sense Rule 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. This application for a CUP is for a property that has already been in use as a truck stop. The changes will be upgrades within the same building and parking areas. No new area of the property will be built upon as part of the project and the entire property is already disturbed.

NOTICING & REVIEW

The application for CUP 2021-09/Coso Junction Truck Stop has been reviewed by the appropriate county departments and Cal Trans. No issues were reported by County staff and the applicant is currently working with both Building and Safety and Environmental Health staffs. Cal Trans did however have comments (attached) regarding possible drainage to Highway 395, and the need for the applicant to get an encroachment permit

that is based on all Cal Trans requirements. The Conditional Use Permit is being conditioned with meeting all of Cal Trans regulations regarding Highway 395 and the truck stop, as well as, meeting all County regulations for building, water and sanitary services.

The hearing for CUP 2021-09/Coso Junction Truck Stop was noticed on January 15, 2022 in the Inyo Register and mailed to property owners within 300-feet of the project location as required by the Inyo County Code. No comments have been received to date.

RECOMMENDATION

Planning Department staff recommends the approval of Conditional Use Permit No. 2020-09/Coso Junction Truck Stop, with the following Findings and Conditions of Approval:

FINDINGS

1. The proposed Conditional Use Permit is exempt by the Common Sense Rule 15061(b) (3) that states that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and, the provisions of the California Environmental Quality Act have been satisfied.
[Evidence: The Common Sense Rule 15061(b) (3) 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. This application for this CUP is for a property that has already been in use as a truck stop. The changes will be upgrades and expansions to the same building footprints and parking areas. No new area of the property will be built upon as part of the project and the entire property is already disturbed (graded and compacted).]
2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of RC.
[Evidence: The goal of this project is to allow for an established non-conforming building, parking and use as a truck stop on the site, to continue in compliance with County's zoning ordinance. The project is consistent with the General Plan designation of RC as it allows for commercial, retail and service uses. It is also compatible with the General Plan's Economic Development Element's Goal ED-1: Business Expansion that states: The County shall encourage existing businesses to expand their own capacities, fits Goal ED 1.1 as the applicant's improvements will likely increase the use of the truck stop bringing additional business to the facility.]
3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits "Truck Stops" as a conditional use in the C2 Zone.
[Evidence: The C2 designation allows for truck stops as a conditional use. This is an established non-conforming use at the site and the applicant is seeking the use permit to continue to operate and expand the truck stop in compliance with County's zoning ordinance. The proposed new gas station, store and overnight truck parking are expansions of the use that has been on the property for years. The Inyo County Code requires that any changes to a non-conforming building/use be approved by the

Planning Commission. 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: Business Expansion states: The County shall encourage existing businesses to expand their own capacities, fits Goal ED 1.1 as the applicant's improvements will likely increase the use of the truck stop bringing additional business to the facility; therefore, this is a desirable use.] This project will also provide an area for truck drivers traveling through the County to stop and rest. This can be a benefit to both the safety of the traveling public and keeping big rig drivers from parking on neighborhood roads.
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 an existing use and building compliant with the County's Zoning Code. It will likely increase the current level of use exiting and entering Highway 395. The applicant is working with Cal Trans on obtaining all necessary permits and meeting the State's regulations regarding grading, drainage and highway encroachment. By meeting Cal Trans' standards, the project 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 an existing use and building compliant the County's Zoning Code. It will not create impacts on the health or safety of persons living or working in the vicinity by meeting the highway standards as set forth by the state of California nor be materially detrimental to the public welfare. Having a safe place for trick drivers to stop and rest is more likely to be a benefit to the public welfare by keeping tired drivers off the highway.]
7. Operating requirements necessitate the Conditional Use Permit for the site.
[Evidence: The continued use of the property and expansion of the truck stop requires a conditional use permit per the Inyo County Code. 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. 2021-09/Coso Junction Truck Stop. The County reserves the right to prepare its own defense.

2. Compliance with County Code

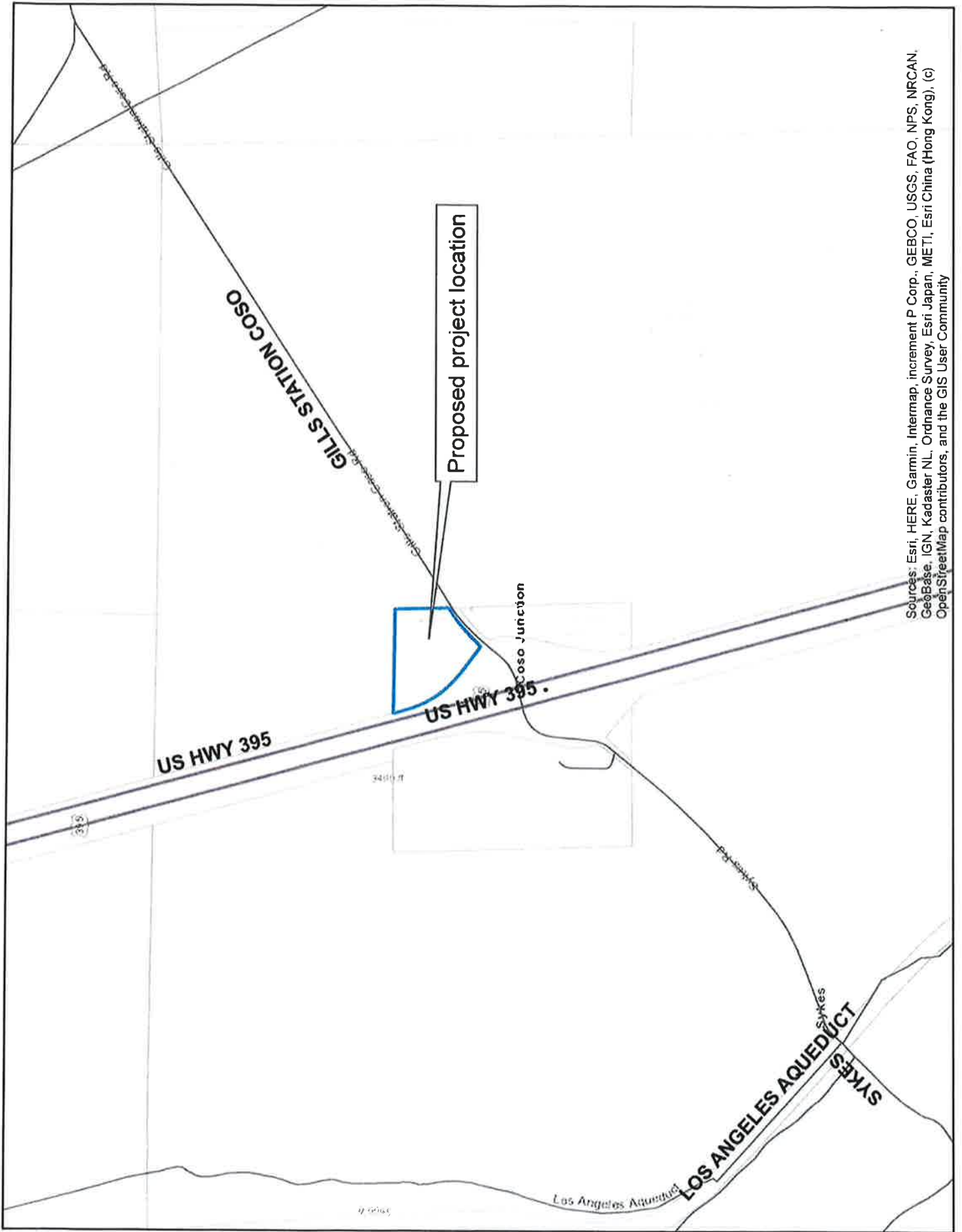
The applicant/developer shall conform to all applicable provisions of Inyo County Code. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

3. The applicant shall obtain and adhere to the requirements of a Cal Trans encroachment permit. The applicant shall also work with Cal Trans regarding grading, runoff, and paving standards with regard to the proposed truck stop. Failure to comply may cause revocation of CUP 2021-09.

4. The applicant shall work with the County Departments of Building and Safety and Environmental Health to ensure all State and County requirements have been met and all required permits are obtained regarding building, septic and wells. Failure to comply may cause revocation of CUP 2021-09.

Attachments:

- Vicinity Map
- Site Plan



Proposed project location

GILS STATION COSO

US HWY 395

US HWY 395

Coso Junction

LOS ANGELES AQUEDUCT
SYKES
SYKES

2400 ft

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

California Department of Transportation

DISTRICT 9
500 SOUTH MAIN STREET | BISHOP, CA 93514
(760) 874-8330 | FAX (760) 872-0678 TTY 711
www.dot.ca.gov



November 29, 2021

Ms. Cathreen Richards, Director
Inyo County Planning Department
Post Office Drawer L
Independence, CA 93526

File: INY-395-17.87
RFC
SCH#: None

Coso Junction Gas Station, Mini-Mart, Truck Stop, Restaurants – Conditional Use Permit #2021-09

Dear Ms. Richards;

The California Department of Transportation (Caltrans) District 9 appreciates the opportunity to comment on the proposed Coso Junction Gas Station expansion, with US 395 access at Gill Station-Coso Road. Since only the cover sheet's vicinity map shows the US 395 right-of-way (R/W) pictorially (no label) and plan sheets don't label it, I emailed the R/W map to you on November 19, 2021. Caltrans acquired R/W (fee title) at this highway junction for an eventual interchange, including a segment of the Gill Station-Coso Road. I have included the map again with this letter. We offer the following:

- Along the project frontage, Gill Station-Coso Road is under Caltrans – not Inyo County's, jurisdiction. Please ensure plan sheets label State R/W accordingly.
- The driveways and any other improvements in State R/W must be constructed to Caltrans Standards with an Encroachment Permit, which will also cover traffic control. Hence, please condition the project to "Obtain and adhere to the requirements of a Caltrans Encroachment Permit." As further discussed below, there could be additional requirements for the Encroachment Permit.

For interaction regarding design standards and permitting, Stephen Winzenread may be contacted at (760) 874-8348 or stephen.winzenread@dot.ca.gov.

See permit information at: <https://dot.ca.gov/programs/traffic-operations/ep/applications>

- As shown on the R/W map there is access control along the parcel's western road frontage. The westerly driveway is correctly outside of this area. However, a proposed walkway is shown to cut through this access control; its location will need to be altered.
- Ensure no additional drainage enters State R/W.

Ms. Cathreen Richards
November 29, 2021
Page 2

- The cover sheet statement regarding an Inyo County Roads Department Encroachment Permit should be corrected, along with any other plan set references to Inyo standards, which should be Caltrans standards.
- The project should be helpful overall by providing additional goods movement services along US 395. In the recent past, District 9 has experienced a new truck stop creating unexpected operational impacts. Since this expanded property use would trigger more trips – especially semi-trucks, please provide trip generation estimates, turn movement splits, and queuing analysis. This will assist both the County and Caltrans in determining any responsibility of the project proponent for possible improvements at the US 395 intersection (e.g. extended acceleration lanes) and/or the Gill Station-Coso Road along with any collision countermeasures (e.g. additional lighting).

We value our cooperative working relationship with Inyo County regarding the public transportation system. For any questions, feel free to contact me at (760) 874-8330 or gayle.rosander@dot.ca.gov.

Sincerely,



GAYLE J. ROSANDER
External Project Liaison

Enclosure: R/W Record Map Iny 395 17.9

c: Mark Reistetter, Caltrans



**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.: 10 (Action Item – Public Hearing)
PLANNING COMMISSION MEETING DATE: January 26, 2022
SUBJECT: Variance #2021-05/Nano Farms

EXECUTIVE SUMMARY

An application for a fence height variance for up to 10-feet on a property zoned Open Space (OS) that is located at 377 Rosemary Lane, in the community of Sandy Valley. The applicant is requesting the fence height variance to provide extra security for a cannabis cultivation business located on the property. This project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the Class 5 exemption, 15305.

PROJECT INFORMATION.

Supervisory District: 5

Project Applicant: Xavier Marquez – Nano Farms

Property Owner: Rutt Premsrirut – 3993 Howard Hughes Parkway #140, Las Vegas, NV 89169

Site Address/

Community: 377 Rosemary Lane, in the community of Sandy Valley

A.P.N.: 048-350-15

General Plan: Agriculture

Zoning: Open Space with a 40-acre minimum (OS-40)

Size of Parcel: Approximately 160-acres

Surrounding Land Use:

Location	Use	General Plan Designation	Zone
Site	Developed – Cannabis cultivation	Agriculture	Open Space with a 40-acre minimum (OS-40)
North	Vacant/Open space	Agriculture	Open Space with a 40-acre minimum (OS-40)
East	Vacant/Open space	Agriculture	Open Space with a 40-acre minimum (OS-40)
South	Vacant/Open space	Agriculture	Open Space with a 40-acre minimum (OS-40)
West	Vacant/Open space	State and Federal Lands	Open Space with a 40-acre minimum (OS-40)

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

This is an application for a fence height variance for up to 10-feet on a property zoned Open Space (OS) that is located at 377 Rosemary Lane, in the community of Sandy Valley. The applicant, Xavier Marquez, is requesting the fence height variance to provide extra security for a cannabis cultivation business located on the property. The fence will run along the outside perimeter of the entire property.

The applicant was granted a Conditional Use Permit in September 2019 to grown commercial cannabis on the site. At that time, the fence height variance was not applied for and is necessary for extra security around the cannabis cultivation business.

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 Categorical 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 & REVIEW

The application for VAR 2021-05/Nano Farms has been reviewed by the appropriate county departments. No issues were reported by County staff and the applicant is currently working with Building and Safety staff.

The hearing for VAR 2021-05/Nano Farms was noticed on January 15, 2022 in the Inyo Register and mailed to property owners within 1,500-feet of the project location as

required by the Inyo County Code for cannabis related projects. No comments have been received to date.

RECOMMENDATIONS

Findings

Staff has reviewed the 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: Inyo County Code (ICC) 18.78.160 limits the height of fences, walls and hedges to 6-feet for the rear and side yards and 3.5-feet for the front. Due to the nature of the activities the applicant is conducting at the site (cannabis cultivation), there will be a need for extra security. Land within the County that is designated OS is mostly vacant. Some has agriculture and residential uses. Although, these uses can include valuable assets on some land, especially agriculture equipment, and some that could be considered hazardous, the proposed cannabis cultivation has a higher likelihood of theft than most other agriculture type activities. This factor at this location is unique, and warrants the applicant's need for a higher, and therefore, more effective fence for security purposes.)
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.
(Affirmative – Evidence: A higher fence would be more likely to lessen the potential detriment to the public welfare, as it will provide for a safer cannabis cultivation site, thus a safer situation for the other properties in the Sandy Valley area. The higher fence will likely detour theft, and as such, the current variance request to allow a 10-foot fence is not allowing for activities that are detrimental or injurious to either public welfare or other properties 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.
(Affirmative – Evidence: The proposed fence height variance is being requested to keep the project site safe and detour theft. The proposed project area is in a remote location of the County where cannabis is proposed to be grown. The location makes safety and security issues more difficult to address as there are fewer eyes on the property. The strict application of a 6-foot, rear and side yards and 3.5-foot front-yard fence height could create difficulties/hardships for the applicant in keeping the area safe and free from theft. Granting a variance for a 10-foot fence would still allow the general purposes of Title 18.78 of the Zoning Code to be fulfilled, as 18.78.170., allows for exceptions to the height limitations for fencing with a variance; and therefore, granting a variance for protective fencing is within the general purposes of this title.)

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 is in a remote location and in the OS zoning designation. Cannabis Cultivation is an allowed conditional use in the OS zone and the applicant was granted a CUP in September 2019. The variance will allow for a higher fence than is allowed by 18.78.160. Any person with property in the OS zone can apply for the same use and the same variance. 18.78.170 allows for exceptions to the height limitations for fencing with a variance; and therefore, granting a variance for this fencing meets general purposes of title 18.78. For these reasons, the requested variance to allow a 10-foot fence cannot be said to constitute a grant of special privileges. It would, instead, allow the property owner the ability to provide for better safety and security at their cannabis cultivation site, which benefits 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 fence height requirements. The proposed cannabis cultivation is permitted as a conditional use in the OS 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 designation of Agriculture as it allows for agriculture type uses. The project also promotes Goal AG 1.0 that states: Provide and maintain a viable and diverse agriculture industry in Inyo County and Policy AG-1.2 that states: Support and encourage continued agriculture production activities in the County. The cannabis cultivation business is consistent with both Goal 1.0 and Policy 1.2 as it diversifies and maintains an agriculture type production in the County.*)

7. The requirements of the California Environmental Quality Act have been met.

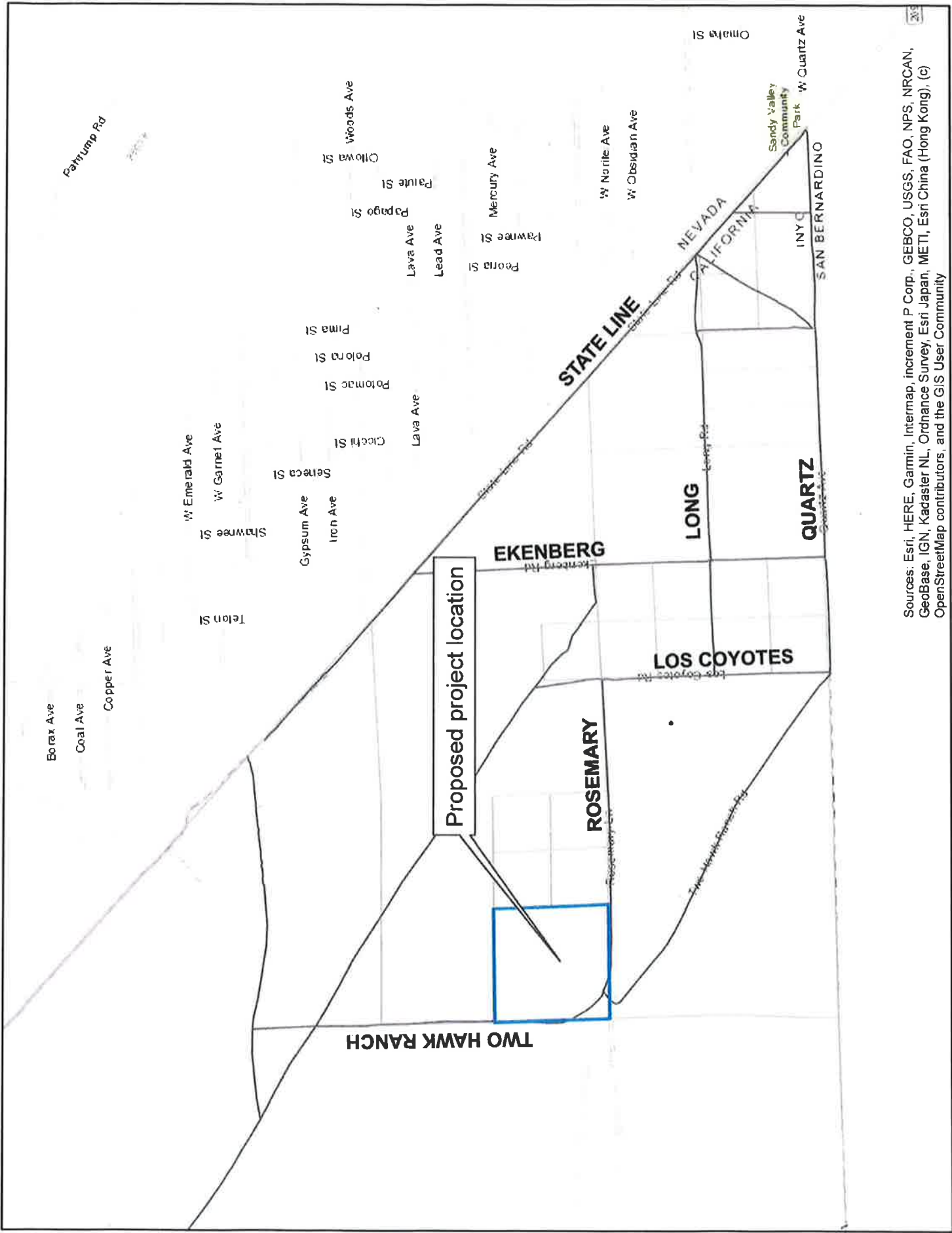
(Affirmative – Evidence: *The requested variance has been determined to be an Exemption under Class 5, 15305 - "Minor alterations to land use limitations, such as lot line adjustments, variances, and encroachment permits on land with a slope of less than 20%, which do not result in changes in land use or density."*).

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 #2021-05/Nano Farms or applicant's failure to comply with conditions of approval.
- 2.) The applicant shall obtain all required permits for all construction pertaining to cannabis cultivation including the fence.

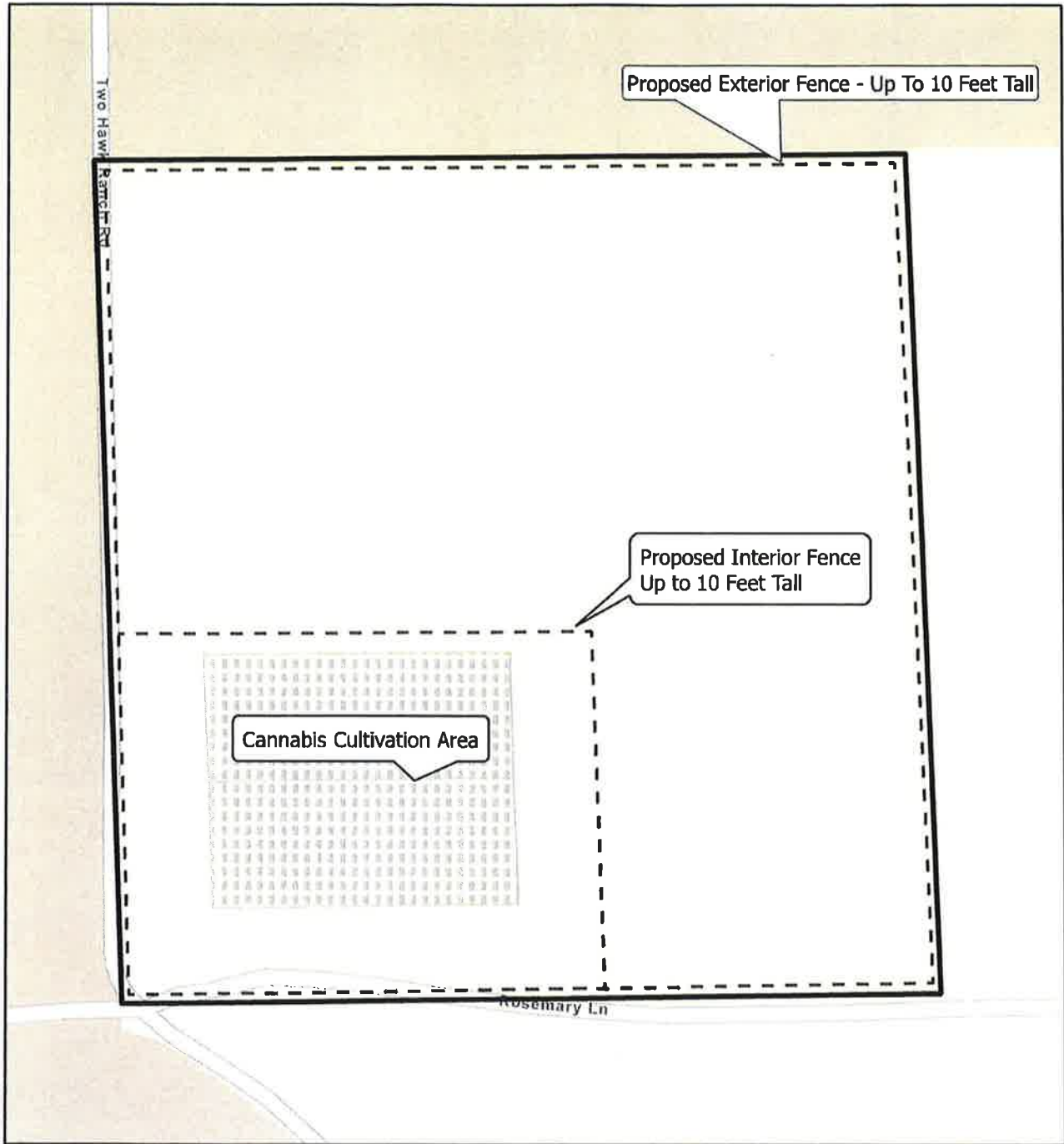
ATTACHMENTS

- Site Map/General Vicinity Map
- Site Plan



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

VARIANCE REQUEST



- - - fence
- Cannabis Cultivation Area

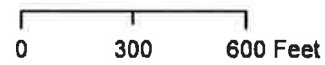
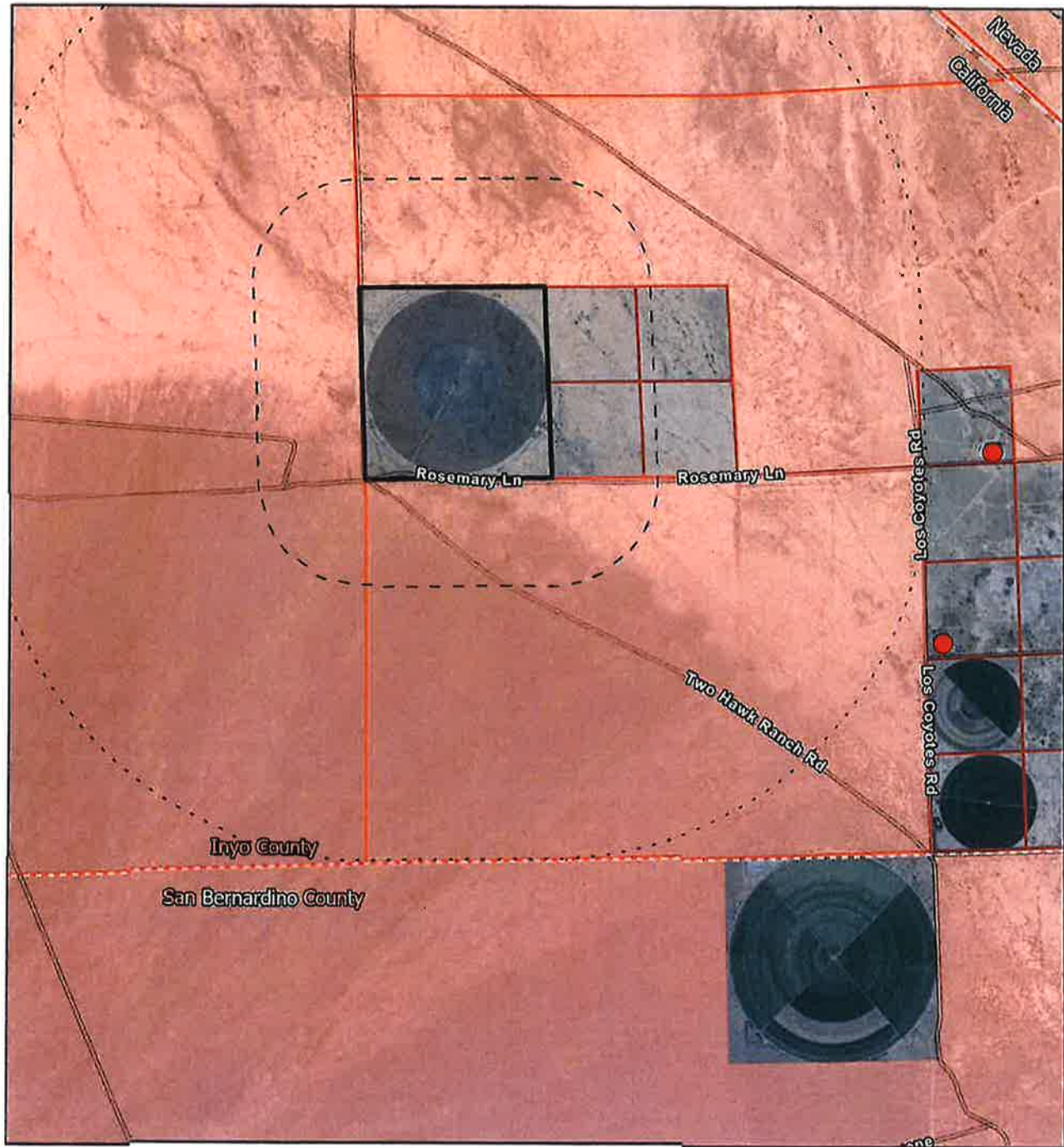


FIGURE 2: NANOFARMS NEARBY LAND USES



- Project Area
- 1,500 ft buffer
- parcels
- Private Land
- Residential home
- BLM
- 1 mile buffer

