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**AGENDA ITEM NO.:** 12 (Action Item – Public Hearing)

**PLANNING COMMISSION  
MEETING DATE:** January 22, 2020

**SUBJECT:** Conditional Use Permit (CUP) 2019-11/Deep Springs College

#### **EXECUTIVE SUMMARY**

The applicant, Deep Springs College, has applied for a CUP to: make the college compliant with the Inyo County Code 18.12 (Open Space); and to replace faculty housing partially lost due a renovation, with a new triplex. The college has been operating at the same location since 1917 and is a grandfathered use as it was established before the County's zoning code. Any changes or expansions do, however, require a CUP. By obtaining the CUP the college can continue the current use as a college, which is considered a public/quasi-public use, and make the proposed improvements. The triplex will house permanent and visiting faculty.

#### **PROJECT INFORMATION.**

**Supervisory District:** 4

**Project Applicant:** Padraic MacLeish

**Property Owner:** Deep Springs College

**Site Address/** 250 Deep Springs Ranch Road

**Community:** Big Pine, CA

**A.P.N.:** 016-170-02

**General Plan:** Open Space and Recreation (OSR)

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

**Size of Parcel:** Approximately 278-acres

**Surrounding Land Use:**

<b>Location:</b>	<b>Use:</b>	<b>Gen. Plan Designation</b>	<b>Zoning</b>
Site	College/ Vacant/Open Space	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)
North	Vacant/Open Space/Ranch	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)
East	Vacant/Open Space	State and Federal Lands (SFL)	Open Space - 40 acre minimum (OS-40)
South	Vacant/Open Space	State and Federal Lands (SFL)	Open Space - 40 acre minimum (OS-40)
West	Vacant/Open Space/Ranch	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)

**Staff Recommended Action:**

**1.) Approve the Conditional Use Permit (CUP) 2019-11/Deep Springs College, with the Findings and Conditions as identified in the Staff Report and find the project is exempt under CEQA.**

**Alternatives:**

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

**Project Planner:**

Cathreen Richards

**STAFF ANALYSIS**

Background and Overview

The applicant has applied for a CUP to build a triplex on the Deep Springs College property near the community of Big Pine and to allow for the continued use of the property for the college. Deep Springs College has been operating in the County since 1917 and is grandfathered since it was established prior to the County’s zoning ordinance. The proposed change to the College (a faculty triplex) has triggered the need for the CUP as this addition will cause the college to become more non-conforming. The OS zone does not allow for the College or any uses/or buildings associated with it as an outright permitted use. The OS zone does, however, allow for public/quasi-public uses, which includes educational facilities with a CUP. 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.”

The addition of the triplex falls under the provision of 18.78.240; and therefore, a CUP approved by the Planning Commission is required. The current use of the property as a College falls under public, quasi-public, uses as an educational facility. Public, quasi-public, uses are conditionally allowed in the Open Space zone; therefore, a conditional use permit is also required for the continued operation of the college to be compliant with the Inyo County Code.

The general project area is in a location surrounded by vacant, open space, and grazing lands.

### Site Location Map



### General Plan Consistency

The goal of this project is to allow for an established non-conforming public, quasi-public, use on the site to continue, and to allow for the addition of a faculty triplex, in compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Rural Protection (RP), as it allows for the managed production of natural resources and agriculture. The college qualifies as its curriculum focuses the study and management of both natural resources and agriculture. In fact, there is an operating farm at the College that the students work on as part of their educational program.

### Zoning Ordinance Consistency

The Open Space zoning designation allows for public and quasi-public buildings and uses of recreational, religious, cultural or public service nature as a conditional use. This is an established use at the site and the applicant is seeking the use permit to continue to operate the College in compliance with County's zoning ordinance. The proposed new building will replace some housing that was in a different building for many years. The Inyo County Code requires that any changes to a non-conforming use and/or building be approved by the Planning Commission. By acquiring the CUP the applicant is creating consistency with the code.

### **OTHER COUNTY DEPARTMENT REVIEW**

The project information was sent to various County departments for review and comment. Comments were received from the Environmental Health Department regarding the onsite sanitary system. Environmental Health Department staff has concerns regarding the existing on-site septic systems being adequate for the addition of the triplex. To address this, the project is being conditioned with: *the applicant shall work with the Inyo County Environmental Health Department to design and build an on-site septic system adequate to meet the needs of the new triplex.*

### **ENVIRONMENTAL REVIEW**

Staff prepared a Draft Mitigated Negative Declaration and Initial Study for CUP 2019-11/Deep Springs College and circulated it for a 30-day review and comment (Attached). The review period closed on January 4, 2020. The Initial Study identified one potential impact (rupture of a known earthquake fault zone) under Geology and Soils that will be less than significant with mitigation. No comments were received.

The majority of the project site is located in an Alquist-Priolo Earthquake Fault Zone. A fault rupture study of portions of the college property was completed in 1997. A follow up letter in July 2019, was provided by Sierra Geotechnical Services indicting that the triplex is outside of the zone of fault rupture hazards. Other sites on the college property have not been evaluated and will need to be in the event the college wishes to add more development in the future. To address this, the project is being conditioned with: *the applicant shall provide the required documentation showing that any future building site on the Deep Springs College property is either covered by the existing earthquake fault rupture hazard study, or a new earthquake fault rupture hazard study shall be prepared, prior to any approvals for development.*

### **TRIBAL CONSULTATION**

In compliance with AB 52 and Public Resource Code Section 21080.3.1(b) as well as tribes identified as being local to Inyo County, were notified via a certified letter about the project and the opportunity for consultation on this project. The tribes notified were: the Cabazon Band of Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Bishop Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe. None of the tribes contacted responded with a request for consultation.

## RECOMMENDATION

Planning Department staff recommends the approval of Conditional Use Permit No. 2019-11/Deep Springs, with the following Findings and Conditions of Approval:

## FINDINGS

1. Based on the Initial Study and all oral and written comments received, the Mitigated Negative Declaration should be adopted and that certification of the provisions of the California Environmental Quality Act have been satisfied.  
*[Evidence: An Initial Study and Mitigated Negative Declaration of Environmental Impact were prepared and circulated for public review and comment pursuant to the provisions of the California Environmental Quality Act. The 30-day comment period ended on January 4, 2020 and no comments were received. The Initial Study identified one potential impact (rupture of a known earthquake fault zone) under Geology and Soils that will be less than significant with mitigation. This mitigation is built into the project as Conditional of Approval #4].*
2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Rural Protection (RP).  
*[Evidence: The goal of this project is to allow for the established non-conforming use (college) at the site to continue operating in compliance with the County's zoning ordinance. The project is consistent with the General Plan designation of RP, as it allows for the managed production of natural resources and agricultural uses. The college qualifies as its curriculum focuses the study and management of both natural resources and agriculture. In fact, there is an operating farm at the College that the students work on as part of their educational program.]*
3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits “public or quasi-public facilities” as a conditional use in the Public zone.  
*[Evidence: Open Space; Section 18.12.040(C) allows for public and quasi-public buildings and uses of recreational, religious, cultural or public service nature as a conditional use. The college qualifies as a public quasi-public use as a facility for the provision of teaching and research. This is an established use at the site and the applicant is seeking the use permit to continue to operate the college in compliance with County's zoning ordinance. The proposed triplex will provide temporary and permanent housing for faculty members. The Inyo County Code states that no non-conforming use or build shall be enlarged or extended without an approval by the Planning Commission per 18.78.240. By acquiring the conditional use permit 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-2.3 states: 'Support the establishment of educational institutions and facilities that can draw post-secondary students into Inyo County and create new nodes of economic activity and retail spending. Deep Springs College has post-secondary students from across the country. It also has onsite and visiting staff, as well as student visitors, all*

*of these bring additional economic activities and retail spending into the County; therefore, this is a desirable use.]*

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 new building compliant with the County's Zoning Code. It will not change or increase the current level or type of use; and therefore, will have no impact on transportation or service facilities in the vicinity.]*
6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.  
*[Evidence: The conditional use permit is being proposed to make an existing use and new building compliant the County's Zoning Code. It will not change or increase the current level or type of use; and therefore, it will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]*
7. Operating requirements necessitate the Conditional Use Permit for the site.  
*[Evidence: The continued use of the property for the college and the additional of a faculty triplex require a conditional use permit per Inyo County Code Section 18.12.040 and 18.78.240. 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. 2019-11/Deep Springs College. 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 work with the Inyo County Environmental Health Department to design and build an on-site septic system adequate to meet the needs of the new triplex.
4. The applicant shall provide the required documentation showing that any future building site on the Deep Springs College property is either covered by the existing

earthquake fault rupture hazard study, or a new earthquake fault rupture hazard study shall be prepared, prior to any approvals for development.