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

**PLANNING COMMISSION MEETING DATE:** May 27, 2019

**SUBJECT:** Conditional Use Permit (CUP) 2020-01/GBUAPCD & Variance 2020-01/GBUAPCD

### **EXECUTIVE SUMMARY**

The applicant has applied for a CUP and a height Variance to allow for the installation of an air monitoring station that consists of one instrument shelter, a meteorological tower, and a chain link fence enclosure, located at 866 E. Locust St. in Lone Pine, in Inyo County.

### **PROJECT INFORMATION.**

**Supervisory District:** 5

**Project Applicant:** Great Basin Unified Air Pollution Control District, 157 Short Street, Bishop, CA 93514

**Property Owner:** Los Angeles Department of Water & Power

**Site Address:** 866 E. Locust St., Lone Pine CA 93545

**Community:** Lone Pine

**A.P.N.:** 026-060-24

**General Plan:** Agriculture (A)

**Zoning:** Rural Residential (RR-10.MH)

**Size of Parcel:** 67 acres

**Surrounding Land Use:**

<b>Location:</b>	<b>Use:</b>	<b>Gen. Plan Designation</b>	<b>Zoning</b>
Site	Vacant/LADWP)	Agriculture (A)	Rural Residential (RR-10)
North	Vacant/LADWP	Agriculture (A)	Rural Residential (RR-10)
East	Vacant/LADWP	Natural Resources (NR)	Open Space, 40 acre minimum (OS-40)
South	Residential/Tribal	Tribal Lands (TL)	Tribal Lands (TL)
West	Residential/private	Residential Medium Density (RM)	Single Residence/Mobile Home (RMH-5,800)

**Staff Recommended Action:**

**1.) Approve the Conditional Use Permit (CUP) 2020-01/GBUAPCD & Variance 2020-01/GBUAPCD and certify that both actions are a Categorical Exemption under CEQA.**

**Alternatives:**

- 1.) Deny the CUP & Variance.
- 2.) Approve the CUP & 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:**

Steve Karamitros

**STAFF ANALYSIS**

Background and Overview

The applicant has applied for a CUP to construct an air monitoring site to collect air quality data in the community of Lone Pine, making it possible for the District (GBUAPCD) to issue health advisories to the Lone Pine community. This would require an 8' x 8' monitoring shelter, one 33 foot tall meteorological tower, and a 6 foot tall fence enclosing the tower and shelter. The tower's specifications require 33 feet of height, which necessitates a Variance, since the maximum building height for the RR zoning designation is 30 feet. This site is located at 866 E. Locust St., in Lone Pine. The property is zoned RR, which allows for public and or quasi-public buildings of a public service nature, as a conditional use requiring Planning Commission approval [ICC 18.21.040 (C)]. The site is located at the eastern end of the residential area in Lone Pine and abuts an Open Space area. The surrounding area is zoned residential and open space.

### Variance Request & Site Characteristics

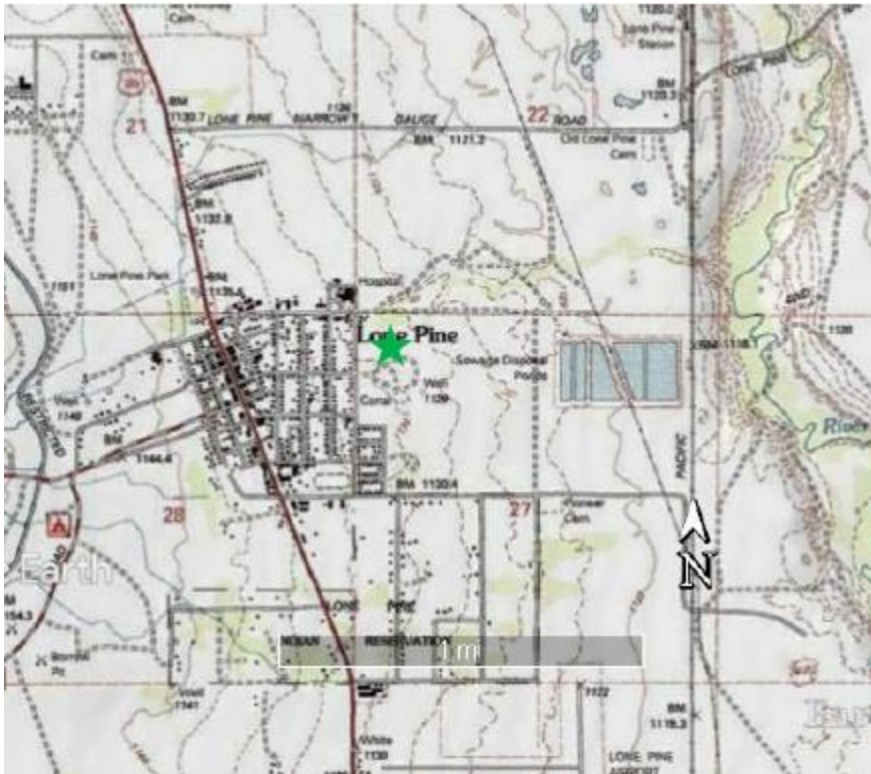
The applicant, GBUAPCD, regulates air quality standards for LADWP. The City of Los Angeles owns the 67 acre parcel located at 866 E. Locust St., in Lone Pine. The constraints to development on this parcel are due to a 30-foot building height requirement for RR zoned properties. For purposes of accurate data collection, the District is proposing to extend the height by 3 feet to build a 33 foot monitoring tower. The proposed project parcel has two zoning designations. The zoning for the area of the proposed height variance is Rural Residential (RR), which comprises the 33-acre eastern side of the parcel. The other 34-acre, western half of the proposed project parcel is zoned Single Residence/Mobile Home Combined (RMH). This western half of the parcel shares the same zoning designation with the surrounding residential properties. The proposed parcel is currently vacant and no previous variance has been approved for this parcel. Development surrounding the parcel, to the west, is made up of single family homes. The undeveloped area surrounding the parcel, to the east, is made up of vacant open space property owned by the City of Los Angeles.

The residential properties surrounding the proposed project parcel are zoned RMH-5,800. These parcels to the west of the proposed variance all meet the minimum 5,800 square foot requirement and thirty-five foot height requirement. The proposed project's parcel, which falls within the RR zone, requires the following height requirement:

- A. Maximum height of buildings:  
two and one half stories or thirty feet

The parcel is undeveloped and the land is currently used for cattle grazing. It is east of the former Trinity Church complex and southeast of the Southern Inyo Hospital. The proposed monitoring site is the most logical place on the parcel for the applicant's proposed monitoring tower due to its location adjacent to the Lone Pine community, existing road access, previous ground disturbance, and its proximity to a powerline. The proposed height of the tower (33') is 3 feet above what is allowed for principal structures on the property (30 feet).

# Site Proximity Map



# Site Location



### General Plan Consistency

The goal of this project is to combine two existing air quality monitoring sites, located in Lone Pine, to one location within the community boundaries of Lone Pine. The project is consistent with the General Plan designation of Agricultural District (A) since the General Plan specifies that the (A) designation is conducive to “certain compatible nonagricultural” uses. It is also compatible with the County’s Land Use Policy 1.16, pertaining to LADWP, which states: “All General Plan land use designations shall allow for the implementation of Enhancement/Mitigation Projects and/or mitigation measures as described in the Inyo County-Los Angeles Long Term Ground Water Management Agreement and/or the 1991 Final Environmental Impact Report that addressed that agreement.” The proposed project aligns with this policy as the GBUAPCD has a special section of the California Health and Safety Code (§ 42316) that allows it to require LADWP to mitigate the air pollution they cause, and to pay the District's costs to monitor such air pollution, determine what needs to be done to solve the problems, and oversee the implementation of the solutions. The proposed project is directly pursuant to these goals and policies.

### Zoning Ordinance Consistency

The proposed project is a CUP as it constitutes “a public and quasi-public building... [of a] public service nature.” These types of facilities are permitted as a conditional use within the RR zone and require approval from Planning Commission [ICC 18.21.040 (C)]. This project will meet a public service need, by monitoring the air quality of the surrounding Lone Pine area, which aligns with the intent of conditional uses as outlined in ICC 18.21.040.

### 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**

Conditional Use Permit 2020-01/GBUAPCD & Variance 2020-01/GBUAPCD were reviewed for compliance with the California Environmental Quality Act (CEQA) and were found to be exempt from further analysis, pursuant to Section 15303-New Construction or Conversion of small structures (Class 3) of the CEQA guidelines, as it "consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures."

#### **NOTICING & REVIEW**

The application for CUP 2020-01/GBUAPCD has been reviewed by the appropriate county departments and no issues were reported. This included reviews by the Environmental Health, Public Works, and the Treasurer's Office.

The public hearing date for this CUP was noticed on May 14, 2020 in the *Inyo Register* and mailed to property owners within 300-feet of the project location.

#### **RECOMMENDATION**

Planning Department staff recommends the approval of Conditional Use Permit No. 2019-01/GBUAPCD & Variance 2020-01/GBUAPCD, with the following Findings and Conditions of Approval:

#### **FINDINGS for CUP 2020-01**

1. The proposed Conditional Use Permit is a Categorical Exemption under CEQA guidelines and the provisions of the California Environmental Quality Act have been satisfied.  
*[Evidence: Pursuant to 14 California Code Regulatory Sections 15303 et seq., the proposed project is Categorically exempt (Class 3) of the CEQA guidelines, as it "consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures."]*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Agriculture (A).  
*[Evidence: The project is consistent with the General Plan designation of Agricultural District (A) as the facility is a “public [or] quasi-public use.” Furthermore, Inyo County’s General Plan states that “All General Plan land use designations shall allow for the implementation of Enhancement/Mitigation Projects and/or mitigation measures,” which applies to this air monitoring station, as it is meant to deal with the environmental & health impacts resulting from LADWP’s removal of water from the Owens Valley (Policy LU-1.16). The proposed project is consistent with this policy, since its goal is to monitor air quality in Lone Pine, accurately issue health advisories to the local community, and thereby enhance public health.]*
3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits to construction of facilities such as the proposed air monitoring station.  
*[Evidence: Chapter 18.21-RR District requires a conditional use permit for “public and quasi-public buildings... [of a] public service nature” (ICC 18.21.040-C). The applicant’s air monitoring station is fully aligned with County zoning code, as a conditional use, as it will provide air quality information that enables the Air District to provide health advisories to the local community, making it a public service project.]*
4. The proposed Conditional Use Permit is necessary or desirable.  
*[Evidence: The General Plan’s Land Use Implementation Measures state: ‘The County shall amend the Zoning Ordinance to allow for implementation of Enhancement/Mitigation Projects and/or mitigation measures as described in the Inyo County-Los Angeles Long Term Ground Water Management Agreement and/or the 1991 Final Environmental Impact Report that addressed that agreement.’ The applicant’s project is an enhancement/mitigation measure that addresses impacts to the community resulting from air quality issues occurring from LADWP’s water projects in the Owens Valley. This public health service is desirable as discussed in the County’s General Plan.]*
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed conditional use permit is for a facility located approximately half a mile east of Main Street in Lone Pine. The project will be accessed and maintained via existing dirt roads: an unpaved extension of Locust Street runs east from the corner of Locust and Lakeview Streets, and an unnamed dirt road extends south from the Locust Street extension to Inyo Street, at the south end of town. The project will not cause negative impacts on transportation or service facilities in the vicinity.]*

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.  
*[Evidence: The proposed conditional use permit is for a project designed to enhance public health by allowing the GBUAPCD to mitigate air quality impacts on behalf of LADWP by issuing public health advisories to residents of Lone Pine regarding local air quality and to issue appropriate directions to those residents. The project has been evaluated by the Department of Building & Safety and Environmental Health and will not create impacts on the health or safety of persons living or working in the vicinity, nor will it be materially detrimental to the public welfare.]*
7. Operating requirements necessitate the Conditional Use Permit for the site.  
*[Evidence: Use of the property for the purposes of the proposed project requires a conditional use permit per Inyo County Code Section 18.21.040. Therefore, the conditional use permit is necessary for the continued operations at the site.]*

### **Findings for Variance 2020-01**

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

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.  
*[Affirmative – Evidence: The property is zoned Rural Residential (RR), which sets a maximum structural height of 30 feet. The request for increased height to 33 feet is based on science and engineering requirements that specify this height in order to get accurate air quality measurements, allowing the District to issue health alerts to the community of Lone Pine as they arise. These engineering requirements have made it difficult for the applicant to design the air monitoring tower within the height requirement. Limiting the tower to the current structural height requirements has posed exceptional circumstances that make the project impossible without an encroachment into the height requirement.]*
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.  
*[Affirmative – Evidence: Approving this variance will allow for an additional 3 feet of height on the proposed structure. Currently, the developed residential properties to the west of the proposed variance may build principle residential dwellings up to 35 feet, in the RMH zoning district, which exceeds the height requested by the applicant. The District’s request will not affect the properties located to the west. Views from these properties to the Inyo Mountains may be affected slightly. The property will be accessed and maintained via existing dirt roads: an unpaved extension of Locust Street runs east from the corner of Locust and Lakeview Streets, and an unnamed dirt road extends south from the Locust Street extension to Inyo Street, at the south end of town. There is no potential for*



*impacting neighboring properties to the west or south. The height will not cause a situation that could be considered detrimental to the public welfare as the proposed development is being done to enhance public welfare by providing air quality information necessary to the community.]*

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 project site area is constrained by height limitations causing certain facilities, allowed under conditional use, to be limited with regard to their ability to provide accurate information. The RR zone allows for public or quasi-public buildings of a “public service nature” (ICC 18.21.040); however, in this case, limiting the height to the existing structure requirements (30 feet), creates difficulties/hardships for collecting the information needed to make accurate air quality assessments. Granting a variance to extend the tower’s height to 33 feet would still allow the general purposes of Title 18.21 (RR) of the Zoning Code to be fulfilled, as the height would not change the single-family, residential character, density, or use of the property.]*

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

*[Affirmative – Evidence: The project site is conforming with respect to its total area and its buildable space. The applicant has selected the monitoring station site due to its proximity to existing dirt roads and access to electrical utilities needed for the project. In addition, even though the surrounding residential properties are zoned RMH, they have allowable heights of up to 35 feet, which exceeds the height being requested by the variance. For all of these reasons, the requested variance to exceed the structure height requirement by 3 feet cannot be said to constitute a grant of special privileges. It would, instead, allow the applicant the ability to make effective use the property in a same manner consistent with allowed, conditional use, as well as staying within the height requirements in the surrounding RMH neighborhood.]*

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 building height requirements. The proposed air monitoring tower is permitted, as a conditional use, in the RR Zone.]*

6. The proposed variance is consistent with the Inyo County General Plan

*[Affirmative – Evidence: The requested variance presents no inconsistencies with the General Plan land use designation of the project site, which is Agriculture (A). Inyo County Land Use Policy 1.16 states: “All General Plan land use designations shall allow for the implementation of Enhancement/Mitigation*

*Projects and/or mitigation measures as described in the Inyo County-Los Angeles Long Term Ground Water Management Agreement and/or the 1991 Final Environmental Impact Report that addressed that agreement.” The proposed project variance is an enhancement measure, intended to mitigate the health effects from LADWP’s removal of water from the area, and the subsequent air quality effects resulting therefrom.]*

7. The requirements of the California Environmental Quality Act have been met. [Affirmative – Evidence: The requested variance is not subject to the provisions of CEQA, being categorically exempt under Class 3 15303-New Construction or Conversion of small structures, as it “consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures.]

## **CONDITIONS OF APPROVAL**

### **1. Hold Harmless**

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2020-01/GBUAPCD & Variance 2020-01/GBUAPCD. 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 and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

### **3. Additional Building Requirements**

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