Agenda

# County of Inyo Planning Commission

Board of Supervisors Room
Inyo County Administrative Center
Independence, California

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| **LANIE SOMERS** | **FIRST DISTRICT** |
| **CAITLIN (KATE) J. MORLEY** | **SECOND DISTRICT (CHAIR)** |
| **TODD VOGEL** | **THIRD DISTRICT(VICE CHAIR)** |
| **CALLIE PEEK** | **FOURTH DISTRICT** |
| **SCOTT KEMP** | **FIFTH DISTRICT** |
| CATHREEN RICHARDS | PLANNING DIRECTOR |
| PAULA RIESEN | PROJECT COORDINATOR |
| MICHAEL ERRANTE | PUBLIC WORKS DIRECTOR |
| LESLIE CHAPMAN | COUNTY ADMINISTRATOR |
| GRACE CHUCHLA | DEPUTY COUNTY COUNSEL |

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

**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/88010932722?pwd=MkhFREJrUXNTekVZTTRGQ244M1VBZz09

You can also dial in by phone at 1-669-900-6833 Meeting Id: 880 1093 2722 and then enter Passcode: 748384 . 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).

## October 27, 2021

**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 September 22, 2021 Planning Commission Meeting.

**Action Item**

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

**Action Item Public Hearing**

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."

**Action Item Public Hearing**

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.

**Action Item Public Hearing**

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.

**Action Item Public Hearing**

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.

**Action Item Public Hearing**

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.

## 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 September 22, 2021 MEETING

**COMMISSIONERS:**

| | | |
|---|---|---|
| LANIE SOMERS | FIRST DISTRICT | Inyo County Planning Commission |
| CAITLIN (KATE) J. MORLEY | SECOND DISTRICT (CHAIR) | Post Office Drawer L |
| TODD VOGEL | THIRD DISTRICT (VICE) | Independence, CA 93526 |
| CALLIE PEEK | FOURTH DISTRICT | (760) 878-0263 |
| SCOTT KEMP | FIFTH DISTRICT | (760) 872-0712 FAX |

**STAFF:**

| | |
|---|---|
| CATHREEN RICHARDS | PLANNING DIRECTOR |
| GRACE CHUHLA | DEPUTY COUNTY COUNSEL |
| JOHN VALLEJO | ASSISTANT COUNTY COUNSEL |
| GRAHAM MEESE | ASSISTANT PLANNER |
| PAULA RIESEN | PROJECT COORDINATOR |
| LESLIE CHAPMAN | COUNTY ADMINISTRATOR |
| MIKE ERRANTE | 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 10:02 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 10:02 a.m.

**ITEM 2:** **ROLL CALL** - Commissioners: Caitlin Morley, Todd Vogel, 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, Assistant 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 10:03 a.m.

With no one wishing to comment Chair Morley closed the public comment period at 10:04 a.m.

**ITEM 4:** **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the August 11, 2021 meeting of the Planning Commission.

**MOTION:** Commissioner Todd Vogel made the motion to approve the minutes. Then the motion was seconded by Commissioner Callie Peek.

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

The Motion passed 4-0 at 10:05 a.m.

**ITEM 5:** **CONDITIONAL USE PERMIT-2021-02/ VARIANCE-2021-02/COOK** – The applicant has applied for a Conditional Use Permit to allow for the cultivation of hemp. The applicant is also seeking a yard Variance, which would allow for hemp cultivation to to encroach 295 feet into the required 300 foot setback. The project area was previously used as a garden and a lawn and is located near the community of Lone Pine.

Commissioner Lanie Somers thanked Graham for his presentation. Then asked a question about where would the water come from if the artesian well dried up? Would the applicant then come before the commission to request a well permit for watering purposes?

Graham Meese, Assistant Planning answered saying that the possibility did not come up since there has never been a problem with the artesian well as long as the applicant has known, close to 100 years. If the applicant were to drill a new well they would have to go through all applicable county and state guidelines including the Water Quality Board.

Assistant County Counsel, John Vallejo answered that for what it is worth well permits are no longer just administrational anymore. Each has to acquire their own environmental review which may be minimal.

Commissioner Somers then asked John Vallejo if that would come through Planning Commission or would it just be staff?

Assistant County Counsel, John Vallejo said that would be through well permitting which is through Environmental Health. Unless there is a special condition put on this project which would be pretty unusual.

Cathreen Richards, Planning Director stated that she did not think it was necessary in this case. Hypothetically if the well did dry up it would have to go through an environmental review.

Commissioner Somers thanked Cathreen Richards, Planning Director.

Chair Morley opened the Public Comment Period at 10:18 a.m.

With no one wishing to comment Chair Morley closed the public comment period at 10:19 a.m.

Commissioner Lanie Somers would like it noted for the record that she has concerns about the water. While she didn't feel the need to put conditions on this project, she has concerns about someone going and digging wells to irrigate for agriculture.

**MOTION:** Commissioner Todd Vogel made a motion to approve CUP-2021-02/Cook with findings 1-7 and Conditions of approval 1-3 as stated in the staff report and to approve VAR-2021-02/Cook with findings 1-7 and conditions of approval 1-2 as stated in the staff report. Commissioner Cali Peek made the second.

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

The Motion passed 4-0 at 10:19 a.m.

**ITEM 6:** **CONDITIONAL USE PERMIT-2020-06/PINNACLE CANNABIS** – The applicant has applied for a Conditional Use Permit for a cannabis microbusiness. The microbusiness use would include indoor cultivation, non-volatile manufacturing, and distribution. The Project is located at 1550 Trona Wildrose Road, near the community of Trona.

Assistant Planner, Graham Meese stated the staff report included non-storefront retail delivery as a proposed use but this was done by mistake and that this use is not allowed in the general industrial zone. He stated that any language regarding Non-Storefront Retail Delivery shall be considered removed from the staff report for the review and potential approval of this project.

Also, there was one public comment received the day before the public hearing from Searless Valley Minerals, who was concerned about the amount and quality of water that will be needed for this project and where the water will be sourced from.

Commissioner Lanie Somers had concerns with the two wells. Is the project going to use the existing wells or do they plan on drilling new wells?

Assistant Planner, Graham Meese answered that they will be using the existing wells for this project.

Chair Morley opened the Public Comment Period at 10:27 a.m.

Commissioner Lanie Somers asked if the water had been tested to ensure it can be used for cultivation.

The applicant, James Chester answered that once they get power restored to the property the water will be tested.

Daniel Anderson, project coordinator stated that they did anticipate that they will have to set up a reverse osmosis filtration system for the water to be treated before the water was applied to the plants.

Chair, Kate Morley asked even though we are in still in Public Comment and the Applicants are participating in Public Comment, I would just like to calarify the numbers of employees, in staff report it says 5 full-time employees but in the presentation, I think I heard up to 18 employees and I would like that clarified.

Nicholas Fitzer, Marketing said they would start with 5 employees. Between cultivation, and only one greenhouse, and one sales person, then expanding into manufacturing as business expands.

Chair Morley thanked him for clarifying the numbers.

With no one else wishing to speak, Chair Morley closed the public comment period at 10:37 a.m.

Commissioner Todd Vogel wanted to follow up on the Searless Valley Minerals comment letter. So what if the water is untreatable? Commissioner Somers also shared That concern.

Planning Director, Cathreen Richards stated that if they are unable to provide water, then the project cannot move forward.

Daniel Anderson, project coordinator responded that they are aware of the risk and would like to move forward with the project.

Commissioner Todd Vogel asked if there was a possibility that they would want to connect to the Trona water system.

Mr. Anderson answered that he has been in the business a long time and that he cannot anticipate everything. Based on the water from the area they were not concerned with the water treatment.

Commissioner Lanie Somers said she is in agreeance with the Planning Director, that if there is no water, the project does not move forward. She is very concerned that they will try and connect to the Trona water system and she does not feel comfortable with moving forward without addressing the issue.

Commissioner Todd Vogel asked if a condition of approval was added where the water must be sourced from the property, would she feel better with that.

Commissioner Lanie Somers said she would be able to support that.

Planning Director, Cathreen Richard stated that the Cannabis projects already have to obtain approval from the Lahontan Regional Water Quality Board and would assume that they would be the most appropriate governing body to determine if the project can operate. However, as a commissioner, you are able to set conditions of approval on any project.

Daniel Anderson, project coordinator said they did assess the risk they are taking with reguards to the water and felt that the issue is manageable. Based on the water from the surrounding area we weren't concerned with water treatment.

Commissioner Lanie Somers stated that she would like to go back to Director Richards recommendation that if there was not water viable from the site, the project would not move forward. I am very concerned that they would move forward and try to tap into the Trona water system and create a bigger impact on the water system. Without us knowing the quality of water in the wells, I do not feel comfortable approving this project.

Commissioner Todd Vogel asked Commissioner Somers if she would like to place a condition of approval on the project saying that if the water was not sourced from the property project will not continue.

Commissioner Somers said she would be comfortable with that.

Commissioner Callie Peek stated that in the staff report it said they would use 1.2 acre feet of water, is that correct? Is that per year?

Daniel Anderson, project coordinator, stated that Yes, the water usage is very efficient using an advanced drip irrigation system.

Commissioner Callie Peek asked if Mr. Anderson could give a comparable amount Of water usage.

If you were comparing it to corn, for a given growing area, it's about 5%.

Commissioner Peek stated that at their cattle ranch they irrigate more water than that in a day, on a field for a pasture. A 1.2 acre foot is a very small amount. I think that this needs to be made clear to people who don't know agriculture, it is such a minor amount of water. I guarantee that everyone who waters their yard uses more than that in one summer.

Planning Director Richards thanked Commissioner Peak for facilitating that fact. I think that was an important fact that needed to come out.

Commissioner Todd Vogel said according to the website water information.org and average household uses a ½ acre foot per year. I still have this concern that even if it is

unlikely scenario, I would like to have a condition so we will feel comfortable that the water has to be sourced from the property.

Commissioner Lanie Somers said she will feel comfortable with that.

Director Richards said a condition could be done. Is Pinnacle ammenable to that?

Daniel Anderson answered if that is the only way we can get approval for this project then yes. We would like the opportunity to in the unlikely event that the local water is not possible, to utilize other by right sources of water that are available.

Director Richards asked Commissioner Vogel and Commissioner Somers if their primary concern was the potential for the applicant to tap into the Trona water system? Shall we just say they will not get water from the Trona water system? They could truck in water and hold in tanks.

Daniel Anderson reiterated that putting a condition on this project would limit other by right sources of water they might have. By putting a condition stating that the water must be sourced on site is a a very broad stroke and limits other by right sources of water that he might have otherwise.

Commissioner Somers stated that she wanted to clarify that this project is pending on water that has not even been tested. If we had results from a test saying that the water is viable then there would not be an issue, but because we do not have that, we are being asked to approve this, and now hearing that they want all of their options available to them for water, I think that the burden of this process is not on us but on them.

Daniel Anderson stated he did not want all options just legal by right options.

Chair Kate Morley asked what the timeline would be for getting the additional information that is potentially being requested in terms of is the water viable for the useable quality for the intended purposes that Commissioner Somers is asking for?

Daniel Anderson said he would have to look into how long it would take and scheduling The testing and waiting for results.

John Vallejo, Assistant County Counsel said he has insight on the Trona Water System, which this advice is not as a legal advisor but as someone with knowledge of the water system. I am heavily involved in the Indian Wells Ground Water Authority issues, which again is way outside my legal advice. Indian Wells Valley Ground Water Basin is different from the Searles Valley water basin. Searles Valley Minerals imports water from the Indian Wells Valley Basin to use in their industrial operations and as part of this they own the domestic water supply for Trona. Tapping into this water source would have very high costs, if they were able to tap into Tronas domestic system,which would affect their project operation. This scenario is highly unlikely, not impossible, but does not make practical sense.

Commissioner Somers said she might be over sensitive to the water issues, but if she had the results of the water testing this would not be an issue.

Commissioner Vogel said that after the comment letter from Searles Valley Minerals, He would be remiss if he did not find out more information on this project. After this discussion he said that he felt like he have been given that information.

Commissioner Somers said she would vote no because there are no results from the water being tested. I am not against this project; I am against things unintended happening because we failed to put findings in this project as additional security to this project.

Chair Kate Morley said she sees three potential options right now moving forward. Option – 1 Approve the staff's recommendations. Option – 2 add Conditions on this project. Option – 3 Not approve the project. Chair Morley said she would approve the project as recommended by staff. I don't personally feel setting conditions is necessary at this time. Putting Conditions on this project does put another layer of protection on this project, where they would have to come back to the commission would appease concerns.

Assistant County Counsel John Vallejo said it sounds like you are looking for a motion from the Commission.

Director Richards explained that anyone can propose a motion by any way you see fit.

Commissioner Peek said if someone would help her walk through a motion she would be happy to make a motion.

**MOTION:** Commissioner Callie Peek made a motion to approve the project Cup-2020-06 and certify the Mitigated Negative Negative Declaration under CEQA, with the findings 1-7 and conditions of approval 1-11 as stated in the staff report. Commissioner Todd Vogel made the second.

Chair Morley stated that there was a motion and a second is there any more discussion?

Commissioner Lanie Somers said she would just like to ask Callie to add a condition of approval to the project as outlined by Kate earlier.

Commissioner Todd Vogel asked if she wanted this condition to be that they could not tap into the water systems.

Commissioner Somers said no. That if they did not use the existing wells, as proposed, that they have to come back to us for consideration.

Commissioner Peek stated that under her understanding that after they have to go through so many hoops that the concerns you have will be taken care of under staff recommendations.

Commissioner Somers said she appreciates your thoughts but this is more about Optics than anything else at this time.

Commissioner Peek said she does not agree with your Optics. I don't want to add that to my motion.

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

Chair Morley – Yes
Commissioner Vogel – No
Commissioner Peek – Yes
Commissioner Somers – No

Chair Morley said that her understanding with a two-two vote the motion does not pass.

Commissioner Somers would like to offer a second motion to approve Conditional Use Permit-2020-06 Pinnacle Cannabis with findings 1-7 and conditions 1-11 as stated in the staff report with the addition of water quality testing, prior to building permits being granted.

Assistant County Counsel John Vallejo asked what water quality standards we are seeking to make sure are met.

Commissioner Somers then asked Planning Director Richard to help with the new condition.
That if they don't meet the Environmental Health and Lahonton water quality standards, That this project cannot move forward. Then they can come back to the Planning Commission with a different water source.

Commissioner Todd Vogel asked that the motion be re-read back to the commission.

Assistant County Counsel John Vallejo said Cannabis permits already have regulation requirements of obtaining all regulatory permits, so this is redundant but all necessary permits from other regulatory agencies that have jurisdiction over this business.

Commissioner Todd Vogel said he thinks their shared concern is that if the on-site water determines to be insufficient the CUP is not valid and they have to return to the Planning Commission.

**MOTION:** Commissioner Somers would like to offer a second motion to approve Conditional Use Permit-2020-06 Pinnacle Cannabis with findings 1-7 and conditions 1-11 as stated in the staff report with the additional condition of approval that the irrigation water used for the cultivation of cannabis must be sourced onsite and to eliminate non-storefront delivery as a conditional use. Commissioner Todd Vogel made the second.

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

The Motion passed 4-0 at 11:06 a.m.

**ITEM 7:** **CONDITIONAL USE PERMIT-2021-05/CLUFF** - The applicant has applied for a Conditional Use Permit (CUP) to make the legally nonconforming "resort" use of the property conform to the Inyo County zoning code. The applicant is applying for a CUP so he can expand the services provided by Cardinal Village Resort, near the community of Aspendell. No new construction is being proposed.

Graham Meese, Assistant Planner, presented staff report.

Chair Kate Morley asked, does serving alcohol beverages fall under Planning Commission purview?

Planning Director, Cathreen Richards answered this is why we brought to commission. Alcohol is controlled by the Alcohol Beverage Control board and they contact the planning department to ask us if serving alcohol is an allowable use based on the project's zoning restrictions. Basically because they were adding a use, we used this time to update the CUP.

Chair Morley opened the Public Comment Period at 11:14 a.m.

With no one wishing to speak Chair Morley closed the Public Comment period at 11:15 a.m.

**MOTION:** Commissioner Vogel made a motion to approve Conditional Use Permit -2021-02/Cluff and certify that is exempt from CEQA, with findings 1-7 and conditions of approval 1-2 as stated in the staff report. Commissioner Lanie Somers made the second.

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

The Motion passed 4-0 at 11:16 a.m.

**ITEM 8:** **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.

Cathreen Richards, Planning Director, notified the Commission that we are asking for a continuation of this until October 27, 2021, the regularly scheduled Planning Commission meeting. Mr. Shade has shown significant progress in clearing up his building violations with the Building & Safety Department. They contacted me Monday, September 20, 2021 and stated he had made good progress, so we can continue until October. If he continues to make progress we can continue agaon, or actually suspend the violation process.

Chair Morley opened the Public Comment Period at 11:17 a.m.

**MOTION:** Commissioner Lanie Somers made a motion to continue the Hearing at the next Planning Commission meeting October 27, where we will be informed of the status of this hearing. Commissioner Todd Vogel made the second.

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

The Motion passed 4-0 at 11:19 a.m.

**ITEM 9:** **HEARING – RADCLIFF MINE/BUSH MANAGEMENT VIOLATION OF CONDITIONAL USE-2007-05/PRUETT – BALLARAT INC** – The County will be seeking an order to revoke the Conditional Use Permit and require immediate closure of all portals and reclaim site.

Chair Morley formally opened the Public Hearing on the Radcliff Mine/Bush Management Violation of Conditional Use Permit 2007-05/Pruett – Ballarat Inc. at 11:21 am.

Grace Chuhla, Deputy County Counsel, representing the Planning Department, addressed the Planning Commission. She explained that we could reach an agreement with Bush Management that will allow this hearing to be continued until the December 8, 2021, regularly scheduled Planning Commission meeting. Bush Management Company (BMC) has committed to fully closing portals 1 and 6 by the December 8 meeting. Portals 2,3, 4, 5 will either be reclaimed or fence off to deny public access, but the method chosen will be decided by BMC.

Blair Will, the Attorney for Bush management, addressed the Planning Commission to confirm the agreement is mutual and followed up with a written agreement.

Chair Morley asked what the procedural clarification will be for the December 8, Planning Commission meeting. If both parties mutually agree and decide there is not a need, the hearing can just be taken off the agenda.

Lanie Somers would like to make a motion to continue the hearing until the December 8th meeting. Commissioner Vogel made the second.

**COMMISSIONERS' REPORT/COMMENTS** –

Chair Kate Morley said that she is registered to go to the California County Planning Annual Conference October 15th & 16th, Thank you Paula.

**DIRECTOR'S REPORT –**

Planning Director, Cathreen Richards stated that there is new Housing Legislation that staff and County Counsel are currently reviewing. Once the revuew is completed it will be shared eith the commission. Also, and please note that none of this will be in effect until January 1st. Also, the Board of Supervisors did adopt the new update of the Housing Element. It has been submitted to the state and they did respond with comments, we may or may not need to bring that back to the Commission for another review and possible recommendation fo approval. This is just a heads up of what could be coming. We do need to have an October 27 Planning Commission meeting, please get that on your calendars.

**ADJOURNMENT –**

With no further business, Chair Kate Morley requested a motion to adjourn the meeting at 11:32 am. The next meeting will October 27, 2021, at 10:00 a.m.

Commissioner Callie Peek made his final motion to close the meeting.

Seconded by Commissioner Todd Vogel.

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

Motion passed 4-0.

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) 872-2712**
**E-Mail: inyoplanning@inyocounty.us**

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| **AGENDA ITEM NO.:** | **6** (Action Item – Public Hearing) |
| **PLANNING COMMISSION MEETING DATE:** | October 27, 2021 |
| **SUBJECT:** | Conditional Use Permit (CUP) 2021-07/Graves |

## EXECUTIVE SUMMARY

The Applicant Steven Graves, is applying for a conditional use permit to convert his existing garage, which is nonconforming to the required side yard setback, into a habitable space along with constructing an addition to connect this converted habitable space 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.

## PROJECT INFORMATION.

**Supervisory District: 1**

**Project Applicant:** Steven Graves

**Property Owner:** Steven Graves

**Site Address:** 116 N Lone Pine Ave

**Community:** Lone Pine, CA

**A.P.N.:** 005-072-13

**General Plan:** Residential Medium-High Density (RMH)

**Zoning:** Multiple Residential (R2-6,500)

**Size of Parcel:** Approximately 0.17 acres

**Surrounding Land Use:**

| Location: | Use: | Gen. Plan Designation | Zoning |
|---|---|---|---|
| Site | Residential | Residential Medium-High Density (RMH) | Multiple Residential (R2-6,500) |
| North | Residential | Residential Medium-High Density (RMH) | Multiple Residential (R2-6,500) |
| East | Residential | Residential Medium-High Density (RMH) | Multiple Residential (R2-6,500) |
| South | Vacant-LADWP | Residential Medium-High Density (RMH) | Multiple Residential (R2-6,500) |
| West | Residential | Residential Medium Density (RM) | Single Family Residential (RMH-5,800) |

**Staff Recommended Action:** **1.) Approve the Conditional Use Permit (CUP) 2021-07/Graves 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 are needed.

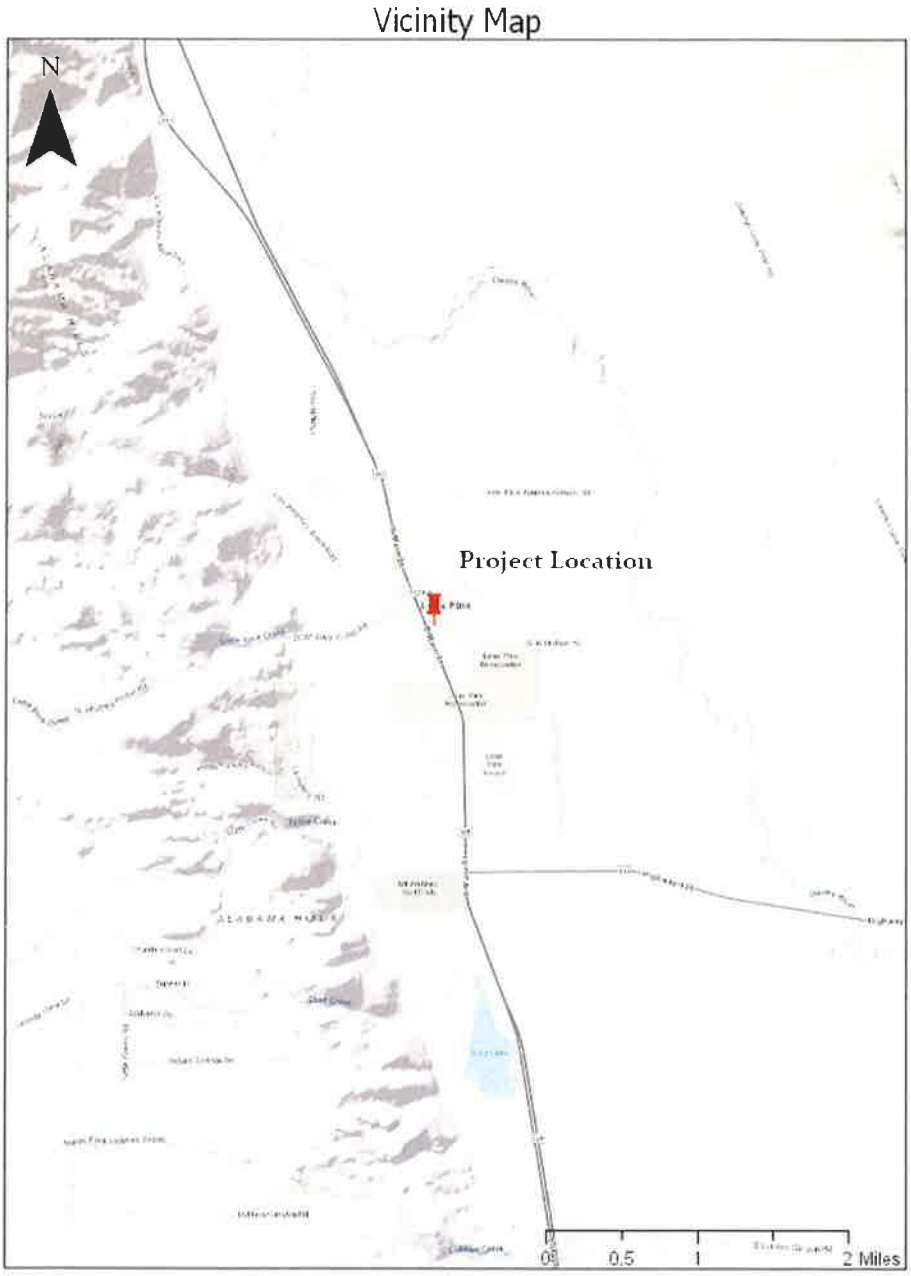
**Project Planner:** Graham Meese

**STAFF ANALYSIS**
Background and Overview

The Applicant Steven Graves, is applying for a conditional use permit to convert his garage, which is nonconforming to the required side yard setback, into a habitable space. He will also be building an addition to connect the habitable 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."

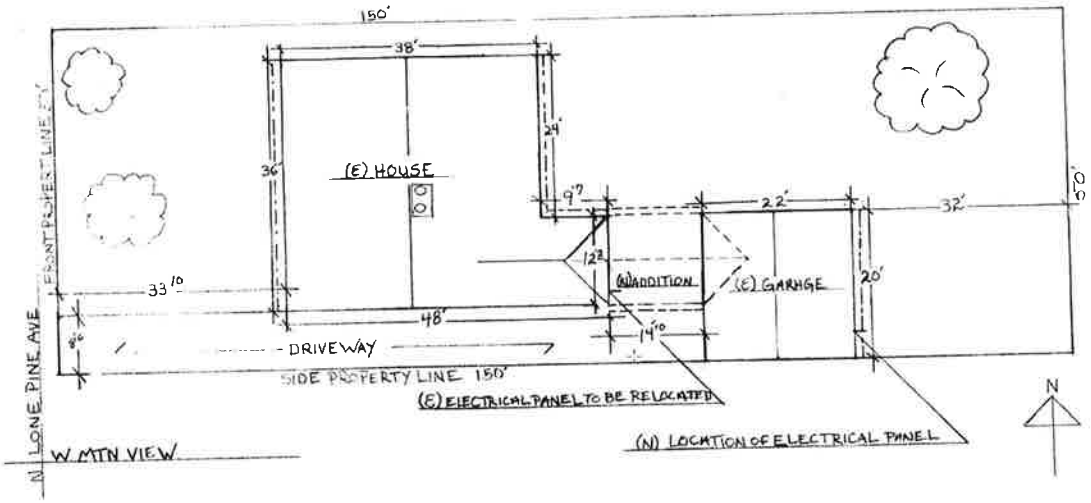
This property is located at 116 Lone Pine Avenue, in Lone Pine California. The parcel is zoned Multiple Residential (R2) with a general plan designation of Residential Medium-High Density (RMH). The property currently contains a single family house and a detached garage, which is located within the side yard setback. The proposed CUP will allow the applicant to convert the garage into a habitable space and attach it to the main house.

Vicinity Map



Site Map

Building Plans




General Plan Consistency

The goal of this project is to allow for an established legally nonconforming garage to be converted into a habitable space and come into compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Residential Medium-High Density (RMH), as it allows for single-family and multi-family residential units, group quarters, public and quasi-public uses, and similar and compatible uses. The proposed project would be expanding a single-family dwelling unit to include the converted garage.

Zoning Ordinance Consistency

The Multiple Residential (R2) zoning designation is intended to provide medium density multiple residential neighborhoods and to provide space suitable in appropriate locations for additional housing developments. The proposed conversion of a garage into a habitable space and the associated connection to the main dwelling is consistent with the R2 zoning designation as it allows for single-family dwellings on a lot as well as two separate single-family dwellings.

**ENVIRONMENTAL REVIEW**

Conditional Use Permit 2021-07/Graves is Categorically Exempt under CEQA Guidelines 15303, New Construction or conversion of small structures-Class 3. Class 3 consists of the construction of new small facilities or structures, and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The CUP is being applied for is to convert a legally nonconforming garage into a habitable space and connect it with the single-family dwelling unit on the property, causing it to be Exempt.

**NOTICING & REVIEW**
The application for CUP 2021-07/Graves has been reviewed by the appropriate County departments with no comments indicating there are any issues with the request.

A public hearing notice was published in the Inyo Register on October 14, 2021 and mailed to property owners within 300-feet of the project location. No comments have been received by staff to date.

**RECOMMENDATION**
Planning Department staff recommends the approval of CUP No. 2021-07/Graves, with the following Findings and Conditions of Approval:

**FINDINGS**
1. The proposed CUP is exempt under CEQA Guidelines 15303, construction or conversion of Small Structures – Class 3; and, the provisions of the California Environmental Quality Act have been satisfied.
   *[Evidence: Class 3 consists of the construction of new small facilities or structures, and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The CUP is being applied for is to convert a legally nonconforming garage into a habitable space and connect it with the single-family dwelling unit on the property.]*

2. The proposed CUP is consistent with the Inyo County General Plan Land Use designation of Residential Medium-High Density (RMH).
   *[Evidence: The goal of this project is to allow for an established legally nonconforming garage to be converted into a habitable space and come into compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Residential Medium-High Density (RMH), as it allows for single-family and multi-family residential units, group quarters, public and quasi-public uses, and similar and compatible uses. The proposed project would be expanding a single-family dwelling unit to include the converted garage.]*

3. The proposed CUP is consistent with the Inyo County Zoning Ordinance of Multiple Residential (R2)
   *[Evidence: The Multiple Residential (R2) zoning designation intended to provide medium density multiple residential neighborhood, and to provide space suitable in appropriate locations for additional housing developments. The proposed conversion of a garage into a habitable space and the associated connection to the main dwelling is consistent with the R2 zoning designation as it allows for single-family dwellings on a lot as well as two separate single-family dwellings.]*

4. The proposed CUP is necessary or desirable.
   *[Evidence: 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. He will also be building an addition to connect the habitable 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." The applicant is converting the garage into a habitable space so he can live in it and allow his daughter and her family to live in the main house. The proposed construction is consistent with the general plan and zoning ordinance, and the CUP is required due to the nonconforming side yard setback along the south side of the existing garage.]*

5. The proposed CUP is properly related to other uses and transportation and service facilities in the vicinity.
   *[Evidence: The proposed CUP is to allow a nonconforming building to be altered in compliance 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 CUP 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 CUP is to allow a nonconforming building to be altered in compliance with the County's Zoning Code. The adjacent lot which the side yard setback is not being met is vacant and owned by LADWP. This project 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 CUP for the site.
   *[Evidence: 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. He will also be building an addition to connect the habitable 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."]*

## 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 CUP No. 2021-07/Graves. 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.

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

**Phone: (760) 878-0263**

**FAX: (760) 872-2712**
**E-Mail: inyoplanning@inyocounty.us**

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

**PLANNING COMMISSION MEETING DATE:** October 27, 2021

**SUBJECT:** GPA 2021-03/W. McNeal; and, ZR 2021-03/W. McNeal

## EXECUTIVE SUMMARY

The applicant, Westley McNeal, has applied to change the Zoning and General Plan Designations on his property, located at 100 Tecopa Hot Springs Road in Tecopa, CA with Assessor Parcel Number (APN) 46-350-1300. 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 property has previously been used as a short-term rental and the applicant has applied for a ZR and GPA to bring the existing use into conformance and better match the surrounding uses. There is no development proposed at this time.

## PROJECT INFORMATION

| | |
|---|---|
| **Supervisorial District:** | **5** |
| **Applicants:** | Westley McNeal |
| **Landowners:** | Westley McNeal |
| **Community:** | Tecopa, CA |
| **A.P.N.:** | 46-350-13 |
| **Existing General Plan:** | Residential Rural High Density (RRH) |
| **Existing Zoning:** | Rural Residential, 1-acre minimum (RR-1.0) |

**Surrounding Land Use:**

| Location | Use | General Plan Designation | Zone |
|---|---|---|---|
| Site | Residential | Residential Rural High Density (RRH) | Rural Residential, 1-acre minimum (RR-1.0) |
| North | Commercial - Brewery and Hot Springs | Resort/Recreational (REC) | Commercial Recreation, 5-acre minimum (C5-5.0) |
| East | Commercial - Hot Springs | Resort/Recreational (REC) | Commercial Recreation, 5-acre minimum (C5-5.0) |
| South | Vacant | Public Facilities (PF) and Residential Rural High Density (RRH) | Public Facility (P) and Rural Residential, 1-acre minimum (RR-1.0) |
| West | Residential-Short term rentals | Resort/Recreational (REC) | Highway Services and Tourist Commercial, 1-acre minimum (C2-1.0) |

**Recommended Action:**

1.) Make certain findings with respect to and recommend the Board of Supervisors approve GPA 2021-03/W. McNeal, and certify it is exempt from CEQA.
2.) Make certain findings with respect to and recommend the Board of Supervisors approve ZR 2021-03/W. McNeal, and certify it is exempt from CEQA.

**Alternatives:**

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

**Project Planner:** Graham Meese

**BACKGROUND**

The applicant, Westley McNeal, is proposing to change the Zoning and General Plan Designations on his property, located at 100 Tecopa Hot Springs Road in Tecopa, CA with Assessor Parcel Number (APN) 46-350-1300. 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 previously operated two short-term rentals on his property and has applied for a ZR and GPA to better match the surrounding uses and bring the intended use into conformance. These short-term rentals are not currently being used or advertised and there is no development proposed at this time.

## STAFF ANALYSIS

Land Use Analysis: The property is surrounded by Commercially zoned parcels for recreation and highway services. The Draft Tecopa Community Plan recommended rezoning this parcel to Commercial Recreation, but due to the small size of the parcel, the applicant has requested Highway Services and Tourist Commercial (C2). The GPA and ZR will not alter the existing land use and there are no development proposals at this time. The parcel contains two structures, both of which have been used as residential short-term rentals without permits and the applicant is requesting the GPA and ZR to match their existing use and bring it into conformance with Inyo County Zoning Code. The short-term rentals are not currently being rented to show compliance with County Code. The GPA and ZR will not alter the character of the property or the surrounding area as they are designations for mixed residential and commercial uses similar to the current uses on the property.

Zoning: The parcel that is proposed for the ZR has a zoning designation of Rural Residental (RR). The applicant is requesting a change to Highway Services and Tourist Commercial, 1.5 acre minimum (C2-1.5). The structures on the property will be used as short-term rentals, which is a principal permitted use under C2. The property currently meets all development standards and yard setback requirements for the proposed zone reclassification to C2.

The parcel is 1.5 acres. The change in designation will not provide for additional future subdivisions as the parcel will not be large enough to divide into additional parcels. It is also in the public interest to have zoning designations match the existing uses on a parcel, and even more so to have zoning match the surrounding parcels. The Draft Tecopa Community Plan, completed in December 2018, recommended rezoning this parcel to Commercial Recreation, but due to the small size of the parcel and large setback requirements under C5, the applicant has requested Highway Services and Tourist Commercial (C2). The Tecopa Community Plan Identified the project vicinity, Tecopa Hot Springs, as the existing and future hub of commercial activity. This ZR will better consolidate commercial activities in the desired area of Tecopa and will produce consistency between use and designation.

General Plan: The parcel's current Residential Rural High Density (RRH) designation relates to the current zoning Rural Residential (RR). The proposal to change to the Resort/Recreation (REC) General Plan designation will be consistent with the existing use and result in an appropriate general plan designation to the proposed Highway Services and Tourist zoning designation. Zoning and General Plan consistency are required by the State and by the Inyo County Code meaning a zoning designation cannot be changed in a manner that causes it to no longer be compatible with the General Plan designation. In this circumstance, the ZR requires the GPA to be in compliance. The surrounding commercially zoned parcels are all zoned REC and the proposed GPA will also result in the General Plan designation being aligned with the current uses on the property.

## TRIBAL CONSULTATION

General Plan updates require that jurisdictions offer consultation opportunities to local Tribes. Pursuant to Government Code Section 65352.3, Tribes have 90-days, after receiving invitations to consult on GPAs to request consultation opportunities. Staff mailed consultation invitations

on August 2, 2021 to the: Lone Pine Paiute-Shoshone Tribe, Kern Valley Indian Council, Fort Independence Indian Community of Paiutes, Walker River Reservation, Timbisha Shoshone Tribe, Bishop Paiute Tribe and the Big Pine Paiute Tribe of the Owens Valley, no requests for consultation have been received to date. The tribal consultation period ends October 31st and the County cannot approve the GPA until this 90-day window has passed.

**ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the General Rule 15061(b) (3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This application for a ZR and GPA is for a property that is already disturbed, where the intended use is the existing use, and includes no additional development proposals; and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption; and, any potential commercial cannabis cultivation will require a discretionary approval (Conditional Use Permit) by the Inyo County Planning Commission that will require an evaluation pursuant to the California Environmental Quality Act.

**NOTICING & REVIEW**

The application for GPA 2021-03/W. McNeal and ZR 2021-03/W. McNeal has been reviewed by the appropriate County departments with no comments indicating there are any issues with the request. The Inyo County Code Enforcement Officer did issue a notice of violation to the applicant for operating a short-term rental without the proper permit, which is the main reason the applicant has submitted this application. The applicant has stopped renting their short-term rentals and removed advertising until the requests for a GPA and ZR have been approved.

The project was noticed on October 14, 2021, in the Inyo Register and mailed to property owners within 300-feet of the project location. No comments have been received by staff to date.

**RECOMMENDATIONS**

Planning Department staff is recommending that the Planning Commission recommend that the Board of Supervisors approve General Plan Amendment 2021-03/W. McNeal and Zone Reclassification 2021-03/W. McNeal and certify that they are Exempt from CEQA.

Recommended Findings

1. Based on the substantial evidence the Planning Commission recommends that the Board of Supervisors certify that General Plan Amendment 2021-03/W. McNeal and Zone Reclassification 2021-03/W. McNeal are Exempt from CEQA.
   *[Evidence: the proposed project is covered by the General Rule 15061(b) (3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to*

*CEQA. This application for a ZR and GPA is for a property that is already disturbed, where the intended use is the existing use, and includes no additional development proposals and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption. Any potential commercial cannabis cultivation will require a discretionary approval (Conditional Use Permit) by the Inyo County Planning Commission that will require an evaluation pursuant to the California Environmental Quality Act ]*

2. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that General Plan Amendment 2021-03/W. McNeal and Zone Reclassification 2021-03/W. McNeal are in conformance with the Goals and Objectives of the Inyo County General Plan.
   *[Evidence: The parcel's current Residential Rural High Density (RRH) general plan designation relates to the current zoning Rural Residential (RR). The proposal to change to the REC General Plan designation will result in it appropriately corresponding to the proposed Highway Services and Tourist zoning designation. Zoning and General Plan consistency are required by the State and by the Inyo County Code meaning a zoning designation cannot be changed in a manner that causes it to no longer be compatible with the General Plan designation. In this circumstance, the ZR requires the GPA to be in compliance. The surrounding commercially zoned parcels are all zoned REC and the proposed GPA will also result in the General Plan designation being aligned with the current uses on the property.]*

3. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that General Plan Amendment 2021-03/W. McNeal and Zone Reclassification 2021-03/W. McNeal are consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.
   *[Evidence: The proposed Zone Reclassification is from Rural Residential to Highway Services and Tourist Commercial, 1.5 acre minimum (C2-1.5). The parcel is 1.5 acres. The change in designation will not provide for additional future subdivisions as the parcel will not be large enough to divide into additional parcels. It is also in the public interest to have zoning designations match the existing uses on a parcel, and even more so to have zoning match the surrounding parcels. The Draft Tecopa Community Plan, completed in December 2018, recommended rezoning this parcel to Commercial Recreation(C5), but due to the small size of the parcel and large setback requirements under C5, the applicant has requested Highway Services and Tourist Commercial (C2). The Tecopa Community Plan Identified the project vicinity, Tecopa Hot Springs, as the existing and future hub of commercial activity. This ZR will better consolidate commercial activities in the desired area of Tecopa and will produce consistency between use and designation.]*

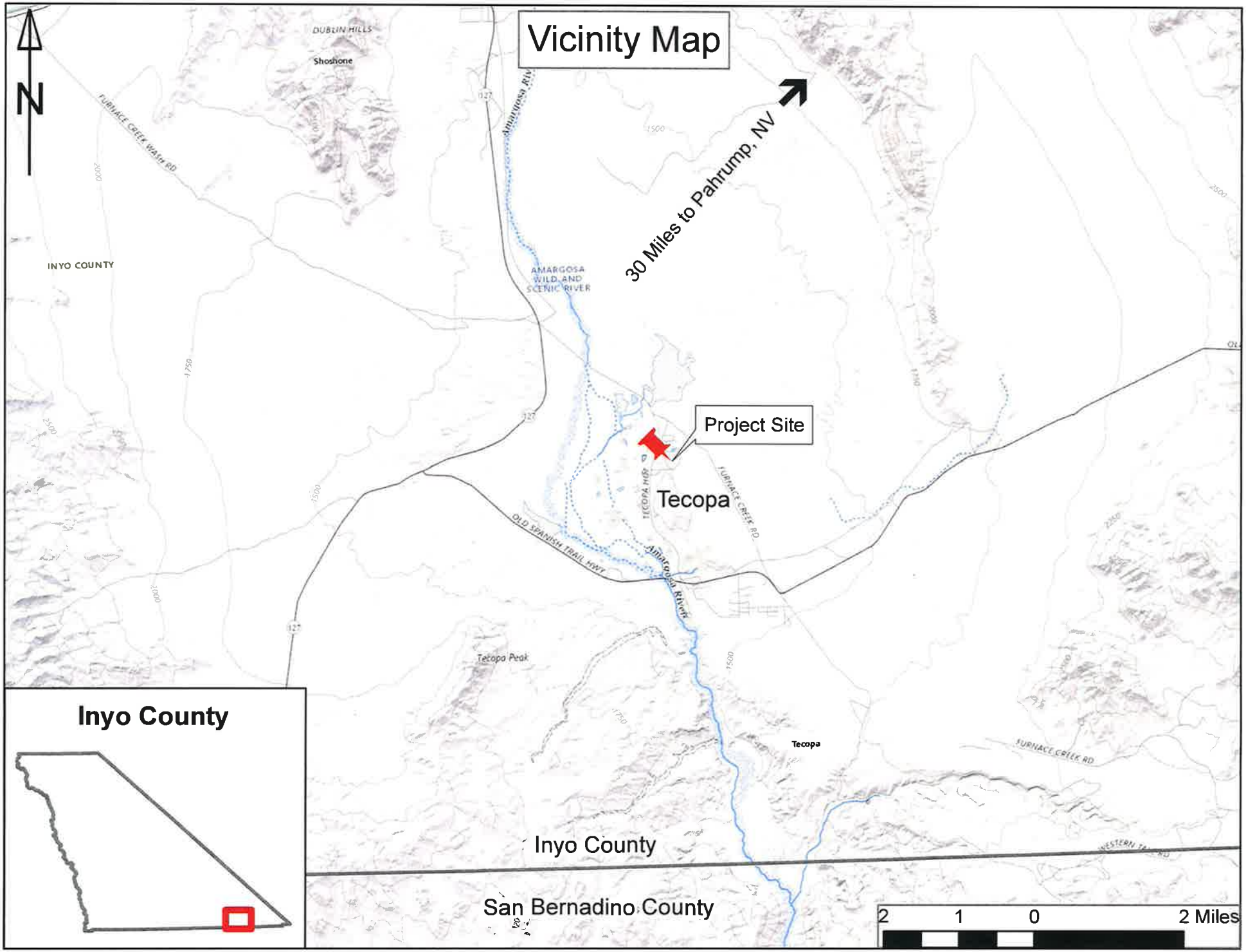
4. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that the site is physically suited for the proposed type and density of development, and finds that the existing and planned public facilities and services are adequate to meet the needs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

*[Evidence: The project is consistent with the commercial and residential uses of the surrounding area. This residentially zoned parcel is surrounded by commercially zoned parcels. The proposed GPA and ZR are aligned with the continued commercial development of the Tecopa Hot Springs area. The GPA and ZR do allow for a potential increase in intensity or density on the site as it changes the parcel from residential to more potential commercial uses, but the applicant has stated that he is just trying to bring the existing short-term rental uses on the property into conformance with the County's Zoning Ordinance. Water is provided to this property via a legal agreement with Delight's Hot Spring Resort to the north and an existing septic system is in place for the two structures on the property.]*

5. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that the design or proposed improvements are not likely to cause substantial impacts to public health, safety or welfare.
   *[Evidence: The proposed General Plan Amendment and Zone Reclassification will allow the current uses on the property to be consistent with the County's Zoning Ordinance by changing the zoning to match the current and future planned uses on the parcel and changing the General Plan to properly correspond with the zoning designation. The Draft Tecopa Community Plan recommended rezoning this parcel to Commercial Recreation, but due to the smaller size of the parcel, the applicant has requested Highway Services and Tourist Commercial. Although the designation changes allow for a potential increase in intensity or density on the site as it changes the parcel from residential to more potential commercial uses, the applicant does not plan to change the existing residential and short-term rental uses on the property; and therefore, will not create substantial impacts to the health or safety of persons living or working in the vicinity, or be materially detrimental to the public welfare.]*

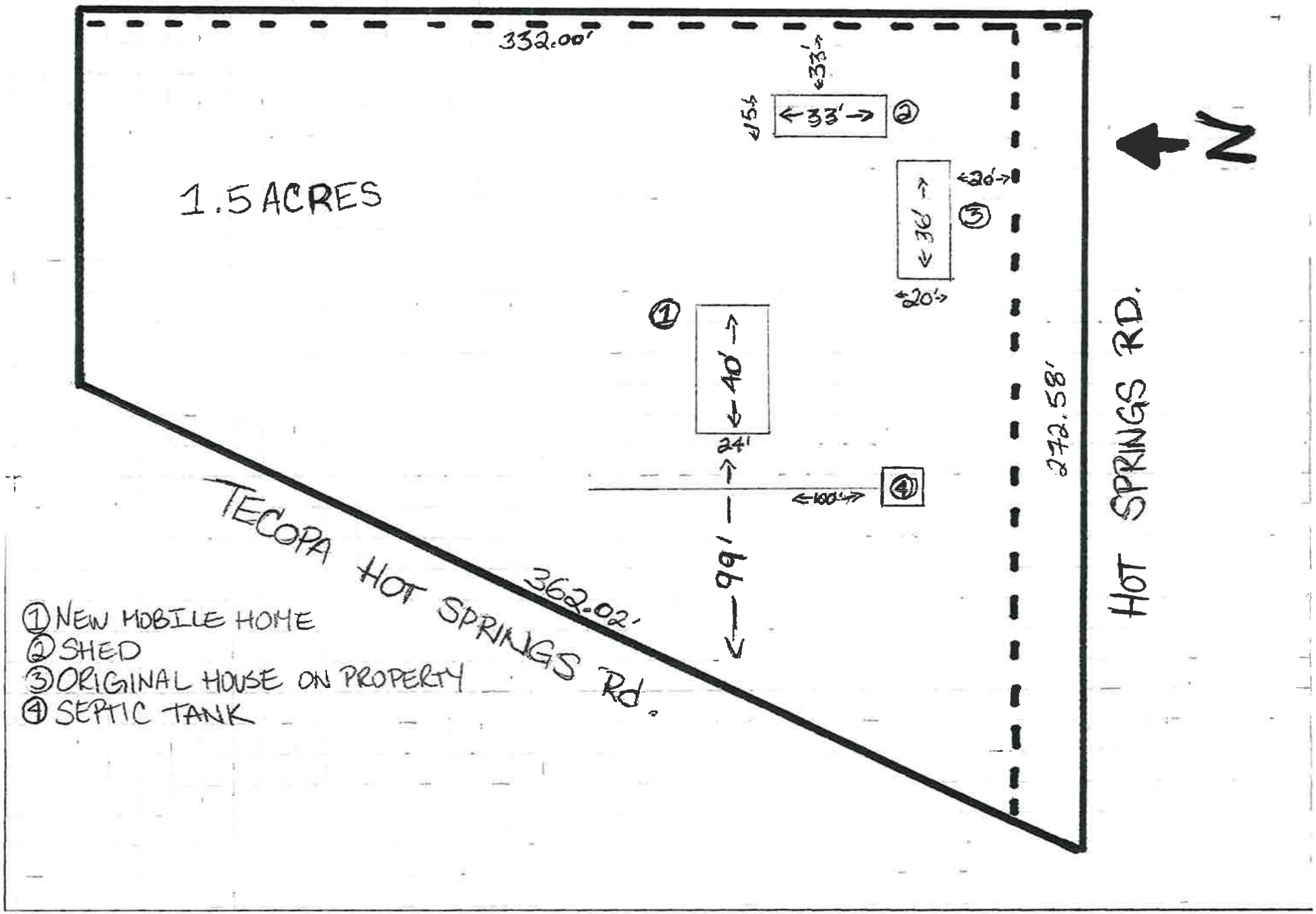
Attachments:

- Vicinity Map
- Site Map
- Site Layout


Vicinity Map
N
30 Miles to Pahrump, NV
Project Site
Tecopa
Inyo County
San Bernadino County
2 1 0 2 Miles
DUBLIN HILLS
Shoshone
FURNACE CREEK WASH RD
INYO COUNTY
AMARGOSA WILD AND SCENIC RIVER
Amargosa River
OLD SPANISH TRAIL HWY
FURNACE CREEK RD
Tecopa Peak
Tecopa
Inyo County

Site Map
N
BLOSS
ELIAS
TECOPA HOT SPRINGS
NOONDAY
SUNDOWN
Project Site
Existing:
Zone: RR-1.0
General Plan: RRH
Proposed:
Zone: C2-1.5
General Plan: REC
300 150 0 300 Feet

Site Layout


332.00'
33'
15'
33'
2
1.5 ACRES
30'
36'
3
20'
1
40'
24'
4
100'
99'
272.58'
HOT SPRINGS RD.
N
TECOPA HOT SPRINGS Rd.
362.02'
1 NEW MOBILE HOME
2 SHED
3 ORIGINAL HOUSE ON PROPERTY
4 SEPTIC TANK

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

**Phone: (760) 878-0263**
**FAX: (760) 872-2712**
**E-Mail: inyoplanning@inyocounty.us**

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

**PLANNING COMMISSION MEETING DATE:** October 25, 2021

**SUBJECT:** General Plan Amendment (GPA) 2021-02; Zone Reclassification (ZR) 2021-02/ 7/11 Materials Inc.

## EXECUTIVE SUMMARY

The applicant, Jeff Reed on behalf of 7/11 Materials Inc., is requesting a General Plan Amendment and Zone Reclassification. The applicant has applied for a General Plan Amendment and Zone reclassification for a sand and gravel pit operated on land leased from LADWP. The proposed Zone Reclassification and General Plan Amendment will revert the mined area back to the original zoning and General Plan designations, dictated as one of the reclamation plan requirements for the mine. The project is located on the northern edge of the Bishop Airport. It is currently zoned Open Space with a 40-acre minimum (OS-40); has the General Plan designation of Natural Resources (NR); and is part of Assessor Parcel Number (APN) 010-270-13 (Attachment - site and vicinity maps). The zone reclassification to Public (P) and General Plan Amendment to Public Facilities (PF) fit the current uses and will allow the Bishop Airport to maintain and expand their existing operations.

## PROJECT INFORMATION

**Supervisorial District:** 2

**Applicants:** Jeff Reed, 7/11 Materials Inc.

**Landowners:** Los Angeles Department of Water and Power

**Community:** Bishop, CA

**A.P.N.:** 010-270-13

**Existing General Plan:** Natural Resources (NR)

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

**Surrounding Land Use:**

| Location | Use | General Plan Designation | Zone |
|---|---|---|---|
| Site | Sand and Gravel Mine, Bishop Airport | Natural Resources (NR), Public Facilities (PF) | Open Space, 40-acre minimum (OS-40), Public |
| North | Sand and Gravel Mine | Natural Resources (NR) | Open Space, 40-acre minimum (OS-40) |
| East | Sand and Gravel Mine, Grazing lease | Natural Resources(NR), Agriculture (A) | Open Space, 40-acre minimum (OS-40) |
| South | Bishop Airport | Public Facilities (PF) | Public (P) |
| West | Vacant Land | Agriculture (A) | Open Space, 40-acre minimum (OS-40) |

**Recommended Action:**

1.) Make certain findings with respect to and recommend the Board of Supervisors approve ZR 2021-02/ 7/11 Materials Inc., and certify it is exempt from CEQA.
2.) Make certain findings with respect to and recommend the Board of Supervisors approve GPA 2021-02/ 7/11 Materials Inc., and certify it is exempt from CEQA.

**Alternatives:**

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

**Project Planner:** Ryan Smith-Standridge

**BACKGROUND**

A conditional use permit was approved by the Planning commission in 1978 to Hiatt Sand and Gravel (Hiatt) to operate an approximate thirty-four-acre aggregate, open pit, mine. In 1990 Hiatt applied for a Conditional Use Permit (CUP) to expand the pit approximately eight acres, encroaching onto Los Angeles Department of Water and Power (LADWP) land, with a county lease, located at the north end of the Bishop Airport. The zoning classification and the General Plan designation at the time did not allow for mining use, so simultaneously, they applied for a ZR, GPA, CUP and Reclamation Plan (RP). During the November 28, 1990 Planning commission meeting, the GPA, ZR, CUP, and RP were approved with conditions. One of these conditions stated that upon the CUP termination, the applicant shall file for a GPA and ZR, to revert the area back to the original General Plan designation of "Public Facilities" and zoning designation of "Public." The Planning commission again approved, in 2008, a minor amendment requesting a time extension for the mine operation until 2010. The mining ceased in 2010, and the land has been naturally revegetating. 711 Materials Inc. holds the current

LADWP lease for the land. They have requested a mine closure inspection and applied for a GPA and ZR to satisfy the conditions of the RP. The project area is currently zoned Open Space (OS-40) with a general plan designation of Natural Resources (NR), and the applicant is requesting a ZR back to P and a GPA back to PF.

**STAFF ANALYSIS**

Land Use Analysis: This parcel is a multi-zoned property surrounded by a sand and gravel pit or vacant open space and agricultural lands to the north, east, and west, most of it managed by the LADWP, and directly to the south is the Bishop Airport. The proposed ZR and GPA will alter the existing land use by reverting to a runway safety area but does not change the character of the property or the surrounding area as the 8-acres have been backfilled and returned to the parcel's original use before the Planning Commission approved the expansion.

General Plan: The parcel's current General Plan designation relates to the current zoning OS-40. The proposal to change to the PF as a General Plan designation will correspond to the proposed P zoning. Zoning and General Plan consistency is required by the State and the Inyo County Code, meaning Inyo County cannot change a zoning designation in a manner that causes it to no longer be compatible with the General Plan designation. The GPA will also result in the General Plan designation aligning with the property's current uses and future vision.

Zoning: The applicant is requesting a zone reclassification to P as required in their reclamation plan. The current zoning of OS-40 was a required ZR as part of their conditional use permit, and is now being reverted back to its original zoning designation. Changing the zoning designation to P will allow the Bishop Airport to extend its runway safety area and maintain adequate fire protection, which produces consistency between use and designation.

*Access:* Restricted gate access is currently provided to the project area by an access road off Wye Road.

*Utilities and Public Services:* Utilities are not located within the project area. The proposed GPA and ZR will allow the reclamation on the mine site to be completed and return to vacant open land as the 8- acres will return to a fenced-in safety area to maintain adequate fire protection for the airport.

*Fire*

The project area is part of the State Responsibility area and will be managed and used by the Bishop Airport as part of their runway safety area.

**TRIBAL CONSULTATION**

General Plan updates require that jurisdictions offer consultation opportunities to local Tribes. Pursuant to Government Code Section 65352.3, Tribes have 90-days, after receiving invitations to consult on GPAs to request consultation opportunities. Staff mailed consultation invitations on May 3, 2021 to the: Big Pine Paiute Tribe of the Owens Valley, Bishop Paiute Tribe, Fort Independence Indian Community of Paiutes, Lone Pine Paiute-Shoshone Tribe, Timbisha Shoshone Tribe, Twenty-Nine Palms Band of Mission Indians, Cabazon Band of the Mission Indians, and the Torez Martinez Desert Cahuila Indians. Bishop Paiute Tribe requested a

consultation, and Staff provided a brief presentation on August 19, 2021. The Tribe determined that no known cultural resources, as defined in Section 15064.5, exist on the proposed site and tribal consultation closed.

**ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the General Rule 15061(b) (3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This application for a ZR and GPA is for a property that is already disturbed and includes no additional development proposals and, Pursuant to the CEQA, potential, subsequent, development to this proposal falls into the Categorical Exemption Class 1 Existing Structures (15301)(f) The proposed ZR and GPA are a condition of the reclamation plan as approved by the Planning Commission that reverts the 8-acres to a fenced-in safety area as an additional safety device to an existing airport facility and, will require a discretionary approval by the Inyo County Planning Commission and Board of Supervisors.

**NOTICING & REVIEW**

The application for ZR 2021-02; GPA 2021-02/7/11 Materials Inc. have been reviewed by the appropriate County departments with no comments indicating there are any issues with the request.

The project was noticed on September 15, 2021 in the Inyo Register and mailed to property owners within 300-feet of the project location. No comments have been received by staff to date.

**RECOMMENDATIONS**

Planning Department staff is recommending the Planning Commission:

1. Recommend the Board of Supervisors approve General Plan Amendment 2021-02 7/11 Materials Inc. and Zone Reclassification 2021-02 7/11 Materials Inc. and certify they are Exempt from CEQA.

**Findings:**

The Planning Commission certifies that the provisions of the California Environmental Quality Act (CEQA) have been satisfied, as the project was deemed exempt from environmental review under CEQA Guidelines Section 15303, class 1 existing structures.
*[Evidence: This application for a ZR and GPA is a Categorical Exemption Class 1 Existing Structures (15301)(f). The proposed ZR and GPA will complete a condition of the reclamation plan as approved by the Planning Commission that requires the reversion of the 8-acres to a fenced-in safety area covered under (f) as an additional safety device to an existing airport facility.]*

1. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that General Plan Amendment 2021-02/ 7/11 and Zone Reclassification 2021-02/ 7/11 are in conformance with the Goals and Objectives of the Inyo County General Plan.

*[Evidence: The proposed general plan designation of Public Service Facilities (PF) will return the project area to its original designation, which will allow for the Bishop Airport to use as needed to maintain and expand their operations.*

2. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that General Plan Amendment 2021-02/ 7/11 and Zone Reclassification 2021-02/ 7/11 are consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.
   *[Evidence: The proposed designation of Public (P) will return the 8-Acre area to its original designation, which will allow for the Bishop Airport to use as needed to maintain a safety area.]*

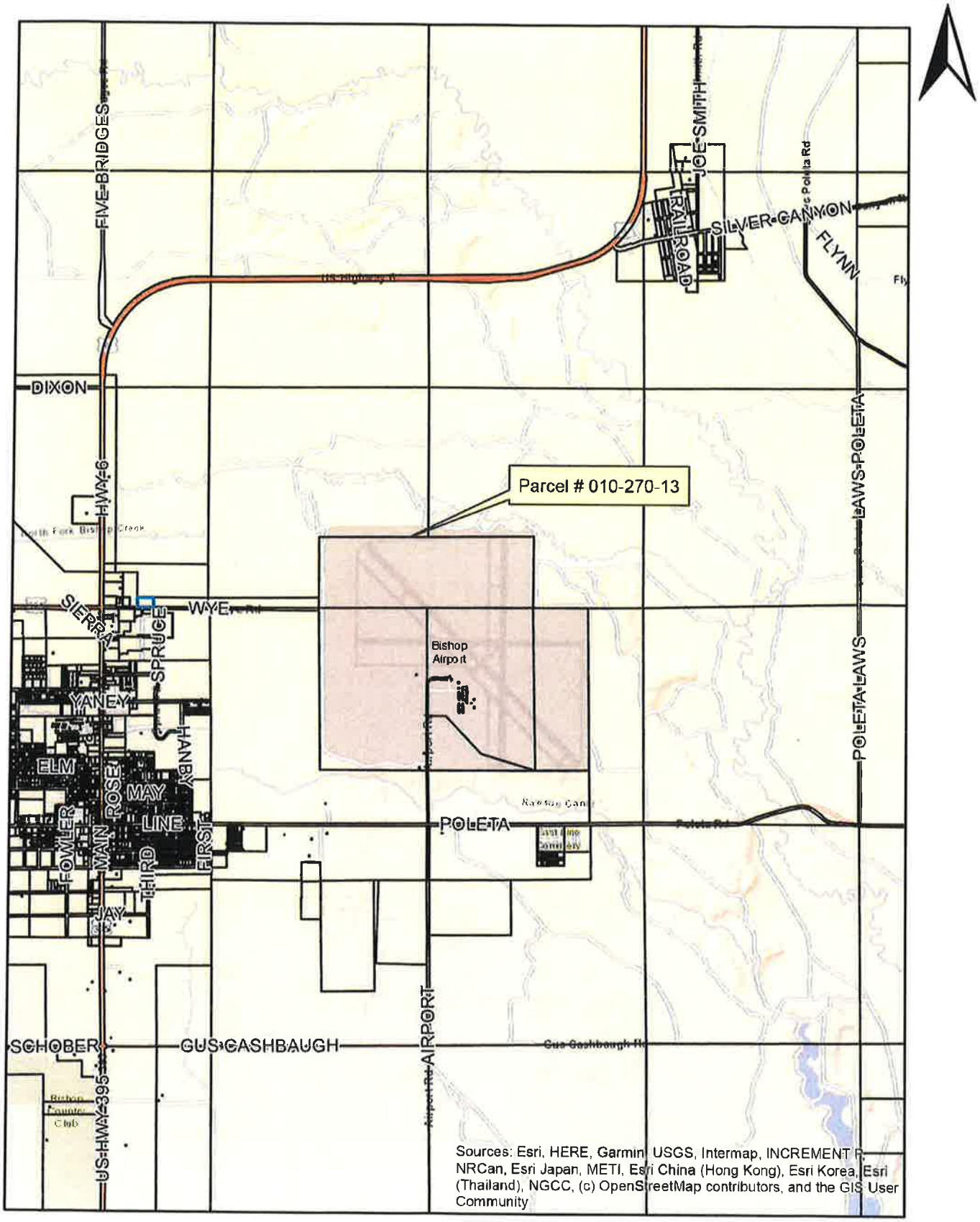
3. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that the site is physically suited for the proposed type and density of development, and finds that the existing and planned public facilities and services are adequate to meet the needs of the proposed project.
   *[Evidence: The project is consistent with the current use of the surrounding area and this request for a GPA and ZR to revert the zoning and General Plan back to their pre-mine designations will complete the reclamation requirements for this site. The GPA and ZR will allow the existing public facility, the Bishop Airport, to maintain and expand their operations, as needed.*

4. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that the design or proposed improvements are not likely to cause substantial impacts to public health, safety or welfare.
   *[Evidence: The proposed General Plan Amendment and Zone Reclassification will allow the current uses on the property to be consistent with the County's Zoning Ordinance by changing the zoning to match the current and future planned uses on the parcel and changing the General Plan to properly correspond with the zoning designation. The designation changes will allow the Bishop Airport to maintain and expand their operations in a manor that protects public health and safety.]*

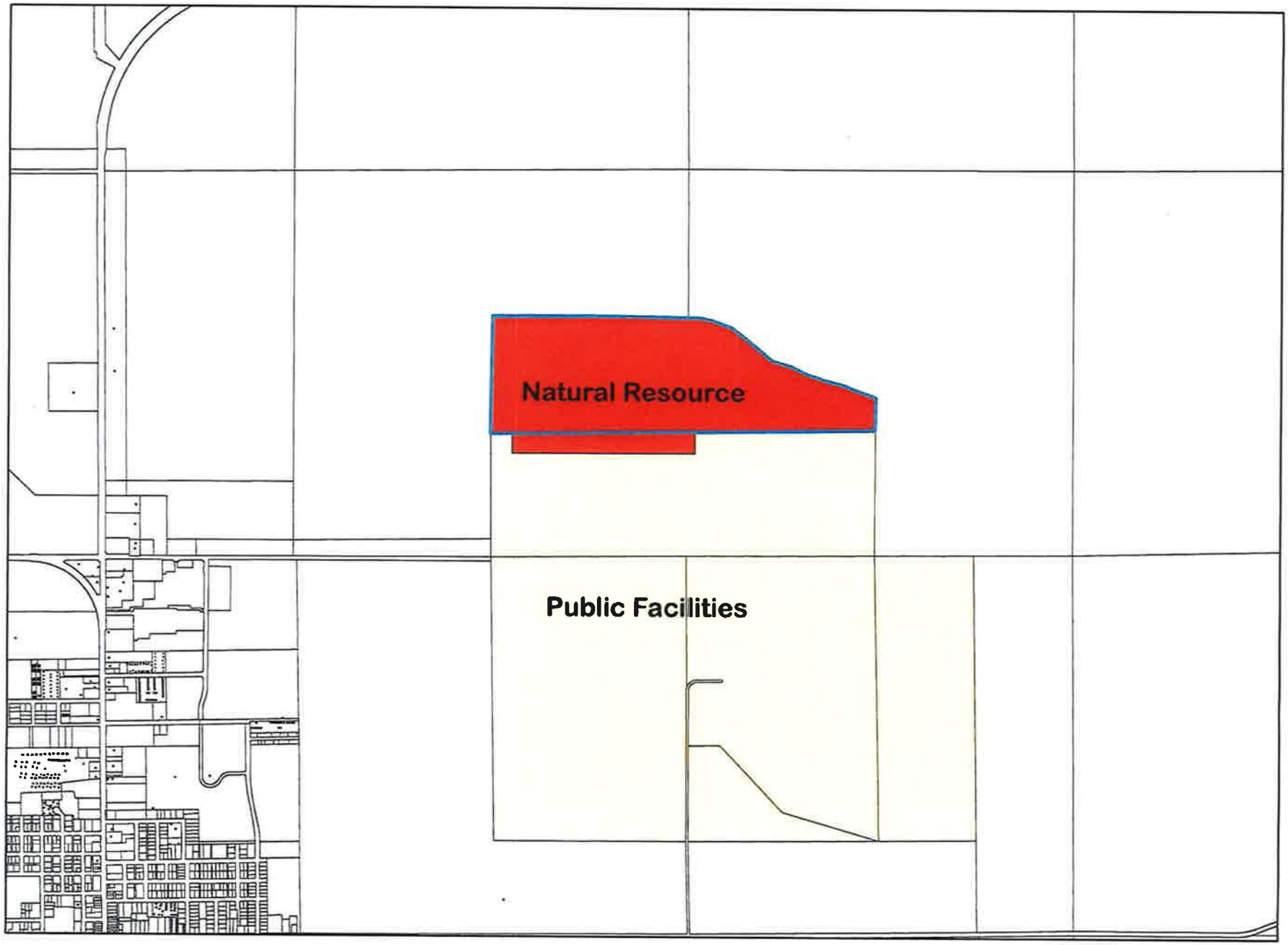
Attachments:

- Vicinity Map
- Current General Plan Designations
- Proposed General Plan Designations
- Current Zoning Designations
- Proposed Zoning Designation
- Proposed Ordinance

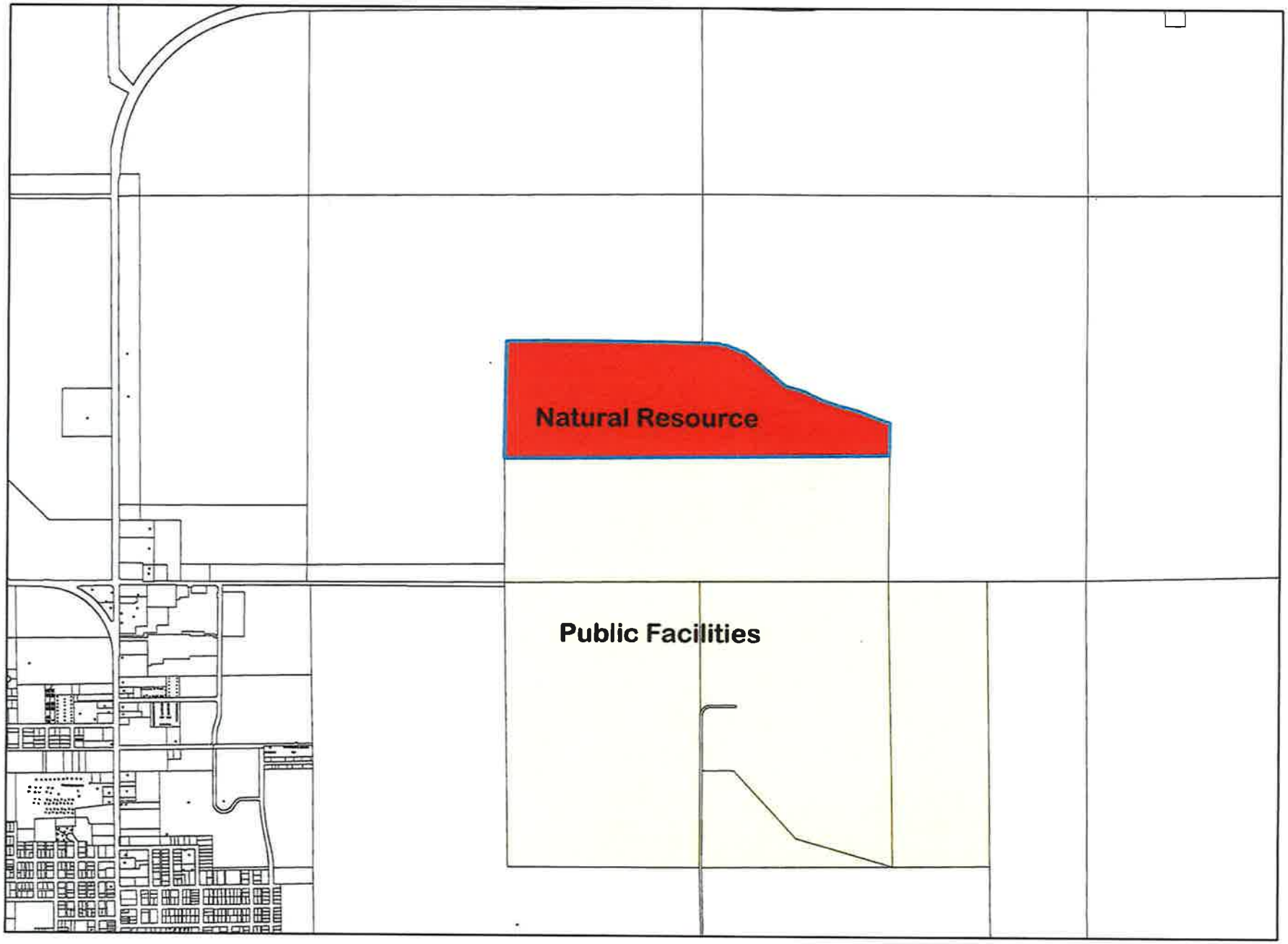
# General Plan Amendment & Zone reclassification Vicinity Map



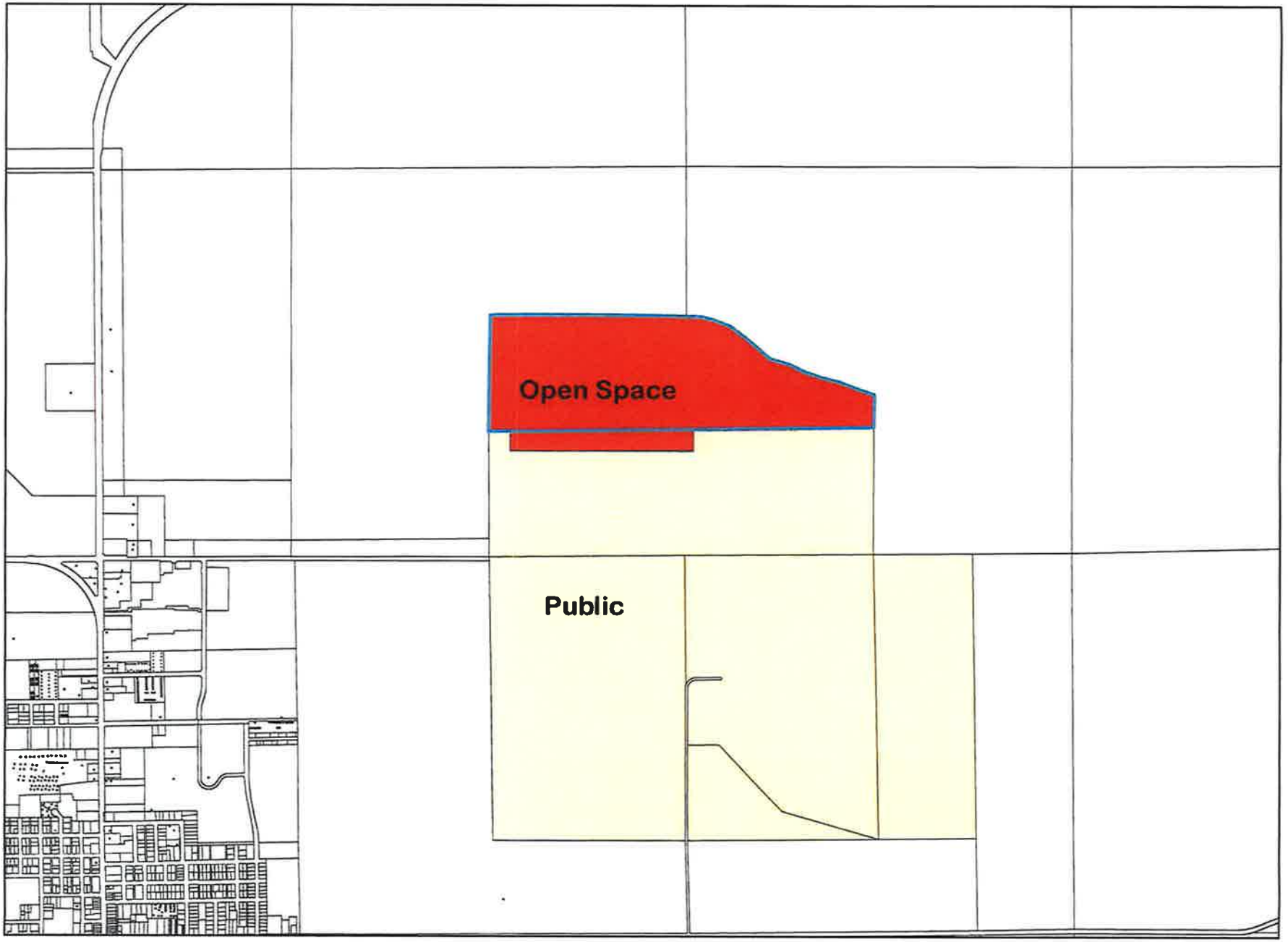
# Current General Plan Designations



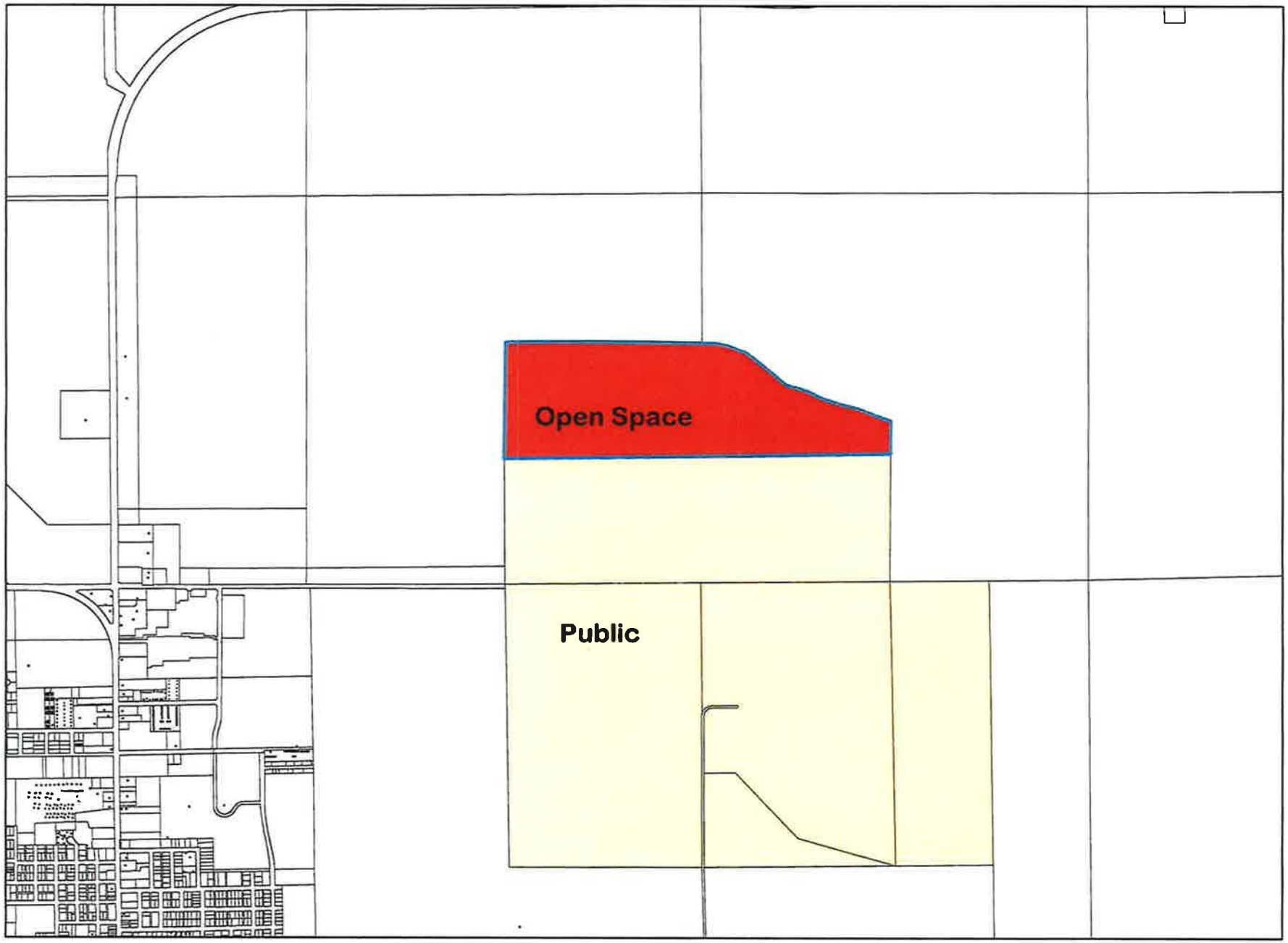
# Proposed General Plan Designations



# Current Zoning Designations



# Proposed Zoning Designations



**ORDINANCE NO. _____**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, APPROVING ZONE RECLASSIFICATION NO. 2021-02/711 MATERIAL INC AND AMENDING THE ZONING MAP OF THE COUNTY OF INYO BY REZONING AN 8-ACRE AREA ON A PARCEL OF LAND WITH ASSESSOR PARCEL NUMBER 010-270-13 LOCATED ON THE NORTHERN END OF THE BISHOP AIRPORT, FROM OPEN SPACE WITH A 40-ACRE MINIMUM (OS-40) TO PUBLIC (P)**

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

**SECTION I: AUTHORITY**

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

**SECTION II: FINDINGS**

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

(1) In accordance with Inyo County Code Section 18.81.320, 711 Material Inc. applied to the Inyo County Planning Commission to have the zoning map of the County of Inyo amended from Open Space with a 40-acre minimum (OS-40) to Public (P) as described in Section III of this Ordinance.

(2) On September 22, 2021, the Inyo County Planning Commission conducted a public hearing on Zone Reclassification No. 2021-02/711 Materials, following which, the Commission made various findings and recommended that this Board amend Title 18, to rezone the property described in Section III of this Ordinance to Public (P).

(3) The findings of the Planning Commission are supported by the law and facts and are adopted by this Board.

(4) 711 Material Inc. applied to the Inyo County Planning Commission to have the Inyo County General Plan Land Use Map amended from Natural Resource (NR) to Public Facilities (PF) to best match the requested zoning and current uses on the property.

(5) The proposed Zone Reclassification is consistent with the goals, policies, and implementation measures in the Inyo County General Plan, including the proposed General Plan Amendment.

(6) The proposed actions will act to further the orderly growth and development of the County by rezoning the property to Public (P) as it best matches the current and planned future uses on the property.

(7) The proposed actions will complete the condition set forth in conditional use permit # 90-08/Haitt to revert zoning and general plan designations back to Public and Public Facilities, will further the applicant's (711 materials Inc.) compliance with Chapter 7.70 of the Inyo County and the public resource code 2710 Surface and reclamation act of 1975.

**SECTION III: ZONING MAP OF THE COUNTY OF INYO AMENDED**

The Zoning Map of the County of Inyo as adopted by Section 18.81.390 of the Inyo County Code is hereby amended so that the zoning on an 8-acre section of a parcel of land with assessor parcel number 010-270-13 is changed from Open Space with a 40-acre minimum (OS-40) to public (P).

**SECTION IV: EFFECTIVE DATE**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption hereof, this Ordinance shall be published as required by Government Code Section 25124. The Clerk of the Board is hereby instructed and ordered to so publish this Ordinance together with the names of the Board members voting for and against same.

**PASSED AND ADOPTED THIS 12TH DAY OF OCTOBER, 2021.**

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

_____
Jeff Griffiths, Chairperson
Inyo County Board of Supervisors

**ATTEST:**
**Leslie Chapman**
**Clerk of the Board**

**By:**_____
Darcy Ellis, Assistant

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

Phone: (760) 878-0263
FAX: (760) 873-2712
E-Mail: inyoplanning@inyocounty.us

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**AGENDA ITEM NO.:** **9** (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** October 27, 2021

**SUBJECT:** **Continuation of Violation of Conditional Use Permit (CUP) 2019-01/Shade Grown Farms**

**EXECUTIVE SUMMARY**

On February 27, 2019, the applicant, Lowell Shade, was approved for a CUP to operate a commercial cannabis cultivation operation located at 140 Agate Street in the community of Stewart Valley (staff report and Notice of Decision attached). The CUP was conditioned with, among other things, a requirement to conform to all applicable provisions of the Inyo County Code and State Regulations. Mr. Shade has failed to meet this condition with regard to building and safety code.

**PROJECT INFORMATION.**

**Supervisory District:** 5

**Project Applicant:** Shade Grown Farms LLC

**Property Owner:** Lowell Shade

**Site Address/** 140 Agate Street, Stewart Valley, CA

**Community:** Stewart Valley

**A.P.N.:** 048-540-08

**General Plan:** Residential Estate (RE)

**Zoning:** Rural Residential with a 5-acre minimum (RR-5)

**Size of Parcel:** Approximately 5-acres

**Surrounding Land Use:**

| Location: | Use: | Gen. Plan Designation | Zoning |
|---|---|---|---|
| Site | Residential and horse stables/arena/ greenhouses | Residential Estate (RE) | Rural Residential with a 5-acre minimum (RR-5) |
| North | Vacant | N/A State of Nevada | N/A State of Nevada |
| East | Vacant | N/A State of Nevada | N/A State of Nevada |
| South | Vacant | Residential Estate (RE) | Rural Residential with a 5-acre minimum (RR-5) |
| West | Vacant | Residential Estate (RE) | Rural Residential with a 5-acre minimum (RR-5) |

**Staff Recommended Action:** **1.) Revoke the Conditional Use Permit (CUP) 2019-01/Shade Grown Farms with the Findings as provided in the staff report and Certify this action is exempt under CEQA.**

**Alternatives:** 1.) Do not revoke the CUP.
2.) 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

On February 27, 2019 the Planning Commission, upon the recommendation of staff, approved a CUP for the applicant, Lowell Shade, to operate a commercial cannabis cultivation operation at 140 Agate Drive in the community of Stewart Valley (see map below). 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.

This CUP was approved with several conditions of approval, these are:

1. The applicant shall provide adequate water and septic systems, public restrooms, and a plan for pesticide and fertilizer use, storage and removal to the satisfaction of the Inyo County Environmental Health Department prior to any Building Permits being granted. Failure to provide shall also cause revocation of CUP 2019-01/Shade Grown Farms.

2. **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 2019-01/Shade Grown Farms. The County reserves the right to prepare its own defense.

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

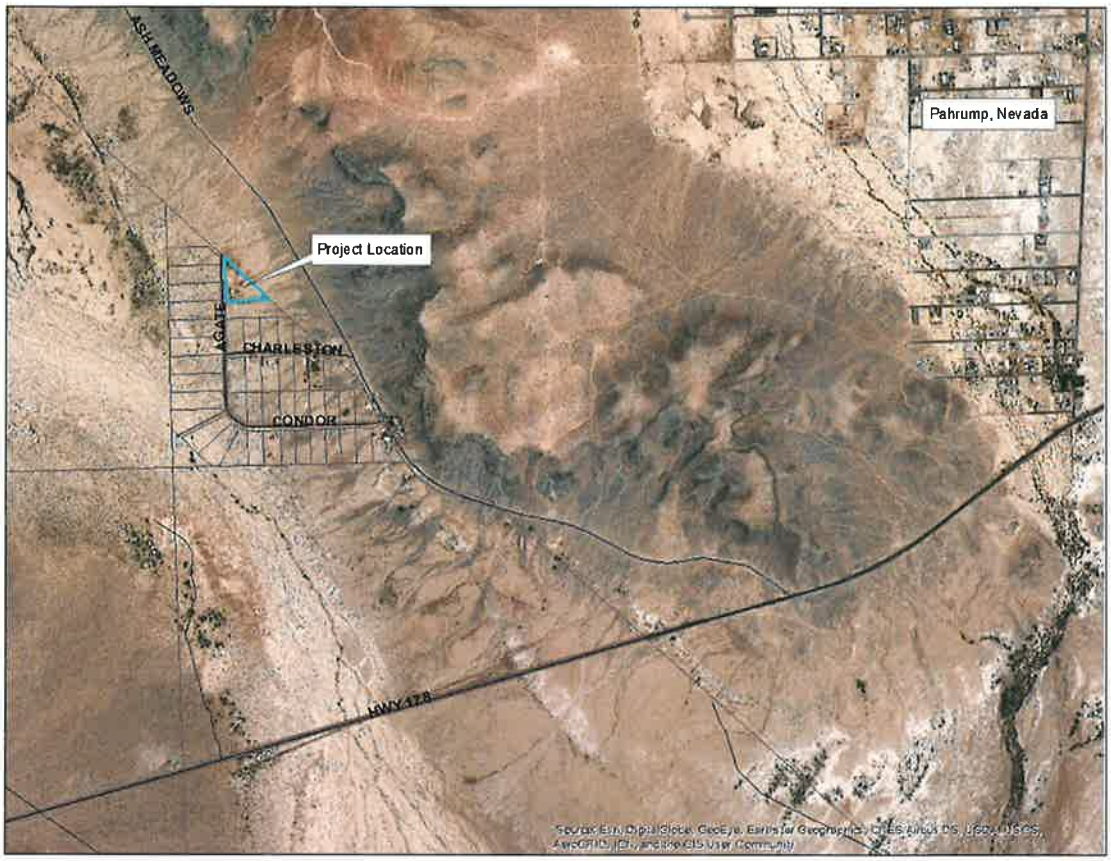
Mr. Shade was given information regarding the building and environmental health departments' requirements and permitting processes. Since the approval, the environmental health department has verbally agreed that Mr. Shade has changed his operations enough that he meets their conditions and/or that some of those conditions no longer apply.

With regard to Condition #3, it requires compliance with Title 14 the County Building and Safety Code, which incorporates by reference the California Building and Safety Code. Mr. Shade has been advised of this on numerous occasions. Instead of honoring the Conditions of Approval of his CUP, Mr. Shade has erected greenhouses on the property without the benefit of building permits. Electrical and plumbing work has also been conducted without permits. Also, during this time Mr. Shade has been growing cannabis in violation of the terms of his CUP.

Building and safety department staff notified the Planning Department of Mr. Shade's failure to obtain the appropriate permits for his cannabis operations and of the fact that much of the work that has been done on the property has resulted in a dangerous situation, especially with regard to the electrical work. Building and safety staffs have had numerous conversations with Mr. Shade about these issues and have scheduled several inspections with Mr. Shade that were subsequently cancelled by Mr. Shade.

Any failure to meet the Conditions of Approval on a landuse permit, including a CUP, puts it in violation. Mr. Shade has had two years and numerous offers of help and descriptions of what he needs to do to be in compliance, while he has continued to grow cannabis. Staff scheduled and noticed a violation hearing for September 22, 2021. At that time Building and Safety staff notified planning that Mr. Shade was making progress on remedying his violations. Due to this, planning staff recommended that the September 22, 2021 hearing be continued until the October 27th hearing with the understanding that Mr. Shade would continue to make progress. Building and Safety staff recently notified planning that Mr. Shade is no longer making sufficient progress - making this hearing necessary. Staff is again recommending that the Planning Commission revoke the CUP. The revocation of this CUP will also likely result in Mr. Shade losing his County and State cannabis cultivation licenses.

Site Location Map




## RECOMMENDATION

Planning Department staff understands the implications of this CUP revocation on Mr. Shade's cannabis business. He has, however, been non-compliant with the Conditions of Approval set forth for the CUP for over 2-years and was given more time after the September 22, 2021 hearing continuance to prove he was serious about remedying his violations. Building and safety staffs have tried during this time to help Mr. Shade with the permitting process to no avail; therefore, staff is recommending that the Planning Commission revoke CUP 2019-01/Shade Grown Farms.

**Findings**

The Notice of Violation was properly served to Mr. Lowell Shade, as the owner of the property and the permit holder.
*[Evidence: Copies of the Notice were sent via US mail and via email on August 11, 2021.]*

This hearing was properly noticed.
*[Evidence: Notice of the date of his hearing was provided in the Inyo Register and mailed to property owners within 1,500-feet of the project property location on September 11, 2021, which is more than 10 days before the date of this hearing.]*

Lowell Shade is in violation of the Conditions of Approval required for CUP 2019-01/Shade Grown Farms.
*[Evidence: CUP 2019-01/Shade Grown Farms was approved on February 27, 2019. Mr. Shade has been engaged in commercial cannabis cultivation since the approval without the benefit of proper building, plumbing or electrical permits, which is required by Condition #3 of CUP 2019-01/Shade Grown Farms.]*

This action is Exempt from CEQA under 15321- Enforcement Actions by Regulatory Agencies.

**ATTACHMENTS**

- Staff Report
- Notice of Decision

**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.:** | **10** (Action Item – Public Hearing) |
| **PLANNING COMMISSION MEETING DATE:** | February 27, 2019 |
| **SUBJECT:** | Conditional Use Permit (CUP) 2019-01/Shade Grown Farms |

**EXECUTIVE SUMMARY**

The applicant has applied for a CUP to operate a commercial cannabis cultivation operation located at 140 Agate Street in the community of Stewart Valley. The applicant has been approved by the Board of Supervisors for a Cannabis Cultivation, under 5,000-square-feet Business License (Attached).

**PROJECT INFORMATION.**

**Supervisory District:** 5

**Project Applicant:** Shade Grown Farms LLC

**Property Owner:** Lowell Shade

**Site Address/** 140 Agate Street, Stewart Valley, CA

**Community:** Stewart Valley

**A.P.N.:** 048-540-08

**General Plan:** Residential Estate (RE)

**Zoning:** Rural Residential with a 5-acre minimum (RR-5)

**Size of Parcel:** Approximately 5-acres

**Surrounding Land Use:**

| Location: | Use: | Gen. Plan Designation | Zoning |
|---|---|---|---|
| Site | Residential and horse stables/arena/ greenhouses | Residential Estate (RE) | Rural Residential with a 5-acre minimum (RR-5) |
| North | Vacant | N/A State of Nevada | N/A State of Nevada |
| East | Vacant | N/A State of Nevada | N/A State of Nevada |
| South | Vacant | Residential Estate (RE) | Rural Residential with a 5-acre minimum (RR-5) |
| West | Vacant | Residential Estate (RE) | Rural Residential with a 5-acre minimum (RR-5) |

**Staff Recommended Action:** **1.) Approve the Conditional Use Permit (CUP) 2019-01/Shade Grown Farms with the Findings and Conditions as provided in the staff report and Certify it 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 applied for a CUP to operate a commercial cannabis cultivation operation, located at 140 Agate Drive in the community of Stewart Valley. This establishment will grow cannabis plants of a variety of strains. The mature plants will also be dried, cured, trimmed and packaged at the project site. The property is zoned RR-5.0 which allows for commercial cannabis cultivation with a CUP. The surrounding area is vacant and zoned RR, with the exception of north and east, which is located in the State of Nevada, but is also vacant. The proposed location is not within 600-feet of a school, daycare, park or library; and therefore, is not prohibited by state or county exclusion areas.

The property proposed for Shade Grown Farms was previously used as rodeo grounds. It is developed and highly disturbed. There is a single-family home where the owner/grower will reside. Currently there are 6 greenhouses located on the property. Three of these greenhouses are proposed to be updated, improved for cannabis cultivation, and permitted through the County Building and Safety Department. Each is approximately 3,000-square-feet and can accommodate about 3,000 plants.

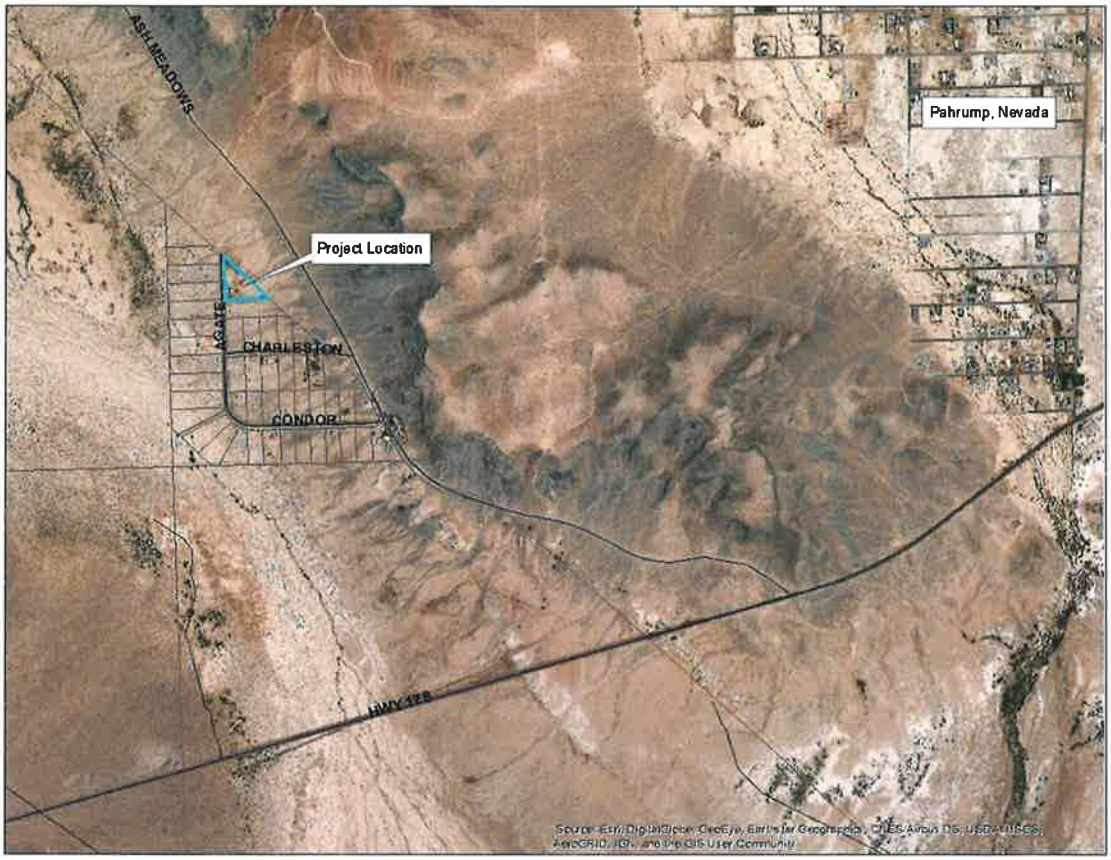
The applicant states that the proposed cultivation operation will require 1,000-1,500 gallons of water per week, through metered drip lines. This amount of water use is minimal and is similar to what a second residential dwelling (accessory dwelling unit)

would use, which is a principle permitted use in the RR zone. The average California household water use is 85-gallons per person. Even a small household of 2-people would use a comparable amount - close to 1,200-gallons per week.

Transport of the packaged product will happen at the end of the harvest season. A transportation company will pick up product from the site. The applicant estimates that at first there will be a weekly pickup and they could have up to approximately 2 to 3 pickups per week as the business grows. This amount of additional traffic on Ash Meadows Road is minimal.

The applicant is currently working with the Environmental Health Department to address water, septic, public restrooms and pesticide and fertilizer use, storage and disposal. The project will be conditioned on the completion of these issues to the satisfaction of the Environmental Health Department.

Site Location Map



Pictures of the Project Property

General Plan Consistency

The goal of this project is to allow for a commercial cannabis cultivation operation. The project is consistent with the General Plan designation of RE as it applies to areas with large lot residential development, in rural areas where the open characteristics of the area are maintained. The RE General Plan designation is compatible with the existing RR zoning designation. It is also compatible with the General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County.

Zoning Ordinance Consistency

The RR zoning designation allows for agriculture uses along with residential. Commercial cannabis cultivation is also allowed in the RR zone with a Conditional Use Permit on lots greater than 2.5-acres in Stewart Valley. The applicant has applied for the conditional use permit to operate Shade Grown Farms in compliance with the County's zoning ordinance.

**ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the General Rule 15061(b) (3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This application for a CUP is for a property that is already developed, denuded of vegetation and is highly disturbed; the proposed activities will result in no change to the impact of uses than are possible without the CUP or currently or historically conducted on the property; and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption.

**NOTICING & REVIEW**

The application for CUP 2019-01/Shade Grown Farms has been reviewed by the appropriate county departments and no issues were reported, other than those being addressed by the applicant with the Environmental Health Department. For a conditional use permit to be approved by the Planning Commission, a Cannabis Business License must be approved prior. Shade Grown Farms was approved for a business license by the Board of Supervisors on December 18, 2018 after a thorough review and scoring by the Commercial Cannabis Permitting Office. This included reviews by the Environmental Health and Sheriff's departments.

CUP 2019-01/Shade Grown Farms was noticed on February 16, 2019 in the Inyo Register and mailed to property owners within 1,500-feet of the project location as required by Inyo County Code 18.78.360(F). No comments have been received by staff to date.

**RECOMMENDATION**

Planning Department staff recommends the approval of CUP 2019-01/Shade Grown Farms with the following Findings and Conditions of Approval:

**FINDINGS**

1. The proposed Conditional Use Permit is Exempt by the General Rule 15061(b)(3) and the provisions of the California Environmental Quality Act have been satisfied.
   *[Evidence: The General 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 a CUP is for a property that is already developed, denuded of vegetation and is highly disturbed; the proposed activities will result in no change to the impact of uses than are possible without the CUP; or of currently or historically conducted uses and activities on the property; and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption.]*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Retail Commercial (RC).
   *[Evidence: The goal of this project is to allow for a commercial cannabis cultivation operation under 5,000-square-feet retail establishment on a parcel of land with a RE General Plan designation. The project is consistent with the General Plan designation of RE as it applies to areas with large lot residential development, in rural areas where the open characteristic of the area are maintained. The RE General Plan designation is compatible with the existing RR zoning designation that is found on the property. It is also compatible with the General Plan's Conservation and Open Space Element's Goal - Agriculture (AG) 1.0 that states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County. Due to these factors, the project is consistent with goals, policies and objectives of the County's General Plan.]*

3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits "commercial cannabis cultivation activities" as a conditional use in the RR zone.
   *[Evidence: The Rural Residential (RR) zoning designation allows for agriculture along with residential as principle permitted uses and also allows for commercial cannabis cultivation with a Conditional Use Permit on lots greater than 2.5-acres in Stewart Valley. The applicant has applied for the conditional use permit to operate Shade Grown Farms in compliance with the County's zoning ordinance.*

*and upon approval of the CUP will be consistent with the County's Zoning Ordinance.]*

4. The proposed Conditional Use Permit is necessary or desirable.
   *[Evidence: The General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0 states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County, which is desirable as evidenced by 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 commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. It is related the to rural, agriculture and open space nature of the area and will not cause impacts on transportation or service facilities in the vicinity as these facilities are already located on and provide access to the property.]*

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.
   *[Evidence: The proposed conditional use permit is for a commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. This establishment will not change or increase the current level or general type of allowed uses in the vicinity, which is very rural and remote. The proposed security plan for Shade Grown Farms was reviewed by the Sheriff's Department as a business license requirement; therefore, CUP 2019-01/Shade Grown Farms 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: A commercial cannabis cultivation operation in the RR zone requires a conditional use permit per Inyo County Code Section 18.21.040(I) and is therefore necessary for the operation of Shade Grown Farms.]*

**CONDITIONS OF APPROVAL**

**1.** The applicant shall provide adequate water and septic systems, public restrooms, and a plan for pesticide and fertilizer use, storage and removal to the satisfaction of the Inyo County Environmental Health Department prior to any Building Permits being granted. Failure to provide shall also cause revocation of CUP 2019-01/Shade Grown Farms.

2. **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 2019-01/Shade Grown Farms. The County reserves the right to prepare its own defense.

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

**ATTACHMENT**

- Shade Grown Farms Business License

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

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

## NOTICE OF DECISION

March 20, 2019

Lowell Shade
50 Emery Street, Apt #421
Pahrump, NV 89048

**SUBJECT: Approval of Conditional Use Permit (CUP) 2019-01/Shade Grown Farms**

On February 27, 2019 the Inyo County Planning Commission considered the above action, which allows for a commercial cannabis cultivation operation located at 140 Agate Street in the community of Stewart Valley.

After deliberation, the Planning Commission voted 5-0 to approve the project with the following Findings and Conditions of Approval:

## FINDINGS

1. The proposed Conditional Use Permit is Exempt by the General Rule 15061(b)(3) and the provisions of the California Environmental Quality Act have been satisfied.
   *[Evidence: The General 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 a CUP is for a property that is already developed, denuded of vegetation and is highly disturbed; the proposed activities will result in no change to the impact of uses than are possible without the CUP; or of currently or historically conducted uses and activities on the property; and, Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption.]*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Retail Commercial (RC).
*[Evidence: The goal of this project is to allow for a commercial cannabis cultivation operation under 5,000-square-feet retail establishment on a parcel of land with a RE General Plan designation. The project is consistent with the General Plan designation of RE as it applies to areas with large lot residential development, in rural areas where the open characteristic of the area are maintained. The RE General Plan designation is compatible with the existing RR zoning designation that is found on the property. It is also compatible with the General Plan's Conservation and Open Space Element's Goal - Agriculture (AG) 1.0 that states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County. Due to these factors, the project is consistent with goals, policies and objectives of the County's General Plan.]*

3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits "commercial cannabis cultivation activities" as a conditional use in the RR zone.
*[Evidence: The Rural Residential (RR) zoning designation allows for agriculture along with residential as principle permitted uses and also allows for commercial cannabis cultivation with a Conditional Use Permit on lots greater than 2.5-acres in Stewart Valley. The applicant has applied for the conditional use permit to operate Shade Grown Farms in compliance with the County's zoning ordinance. and upon approval of the CUP will be consistent with the County's Zoning Ordinance.]*

4. The proposed Conditional Use Permit is necessary or desirable.
*[Evidence: The General Plan's Conservation and Open Space Element's Goal Agriculture (AG) 1.0 states: Provide and maintain a viable and diverse agriculture industry in Inyo County. The applicant is proposing to grow cannabis to sell. This activity is consistent with Goal AG 1.0 as it provides for a more diverse agriculture industry than is currently present in the County, which is desirable as evidenced by 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 commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. It is related the to rural, agriculture and open space nature of the area and will not cause impacts*

*on transportation or service facilities in the vicinity as these facilities are already located on and provide access to the property.]*

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.
   *[Evidence: The proposed conditional use permit is for a commercial cannabis cultivation establishment to operate in a rural area on a location that is already developed and highly disturbed. This establishment will not change or increase the current level or general type of allowed uses in the vicinity, which is very rural and remote. The proposed security plan for Shade Grown Farms was reviewed by the Sheriff's Department as a business license requirement; therefore, CUP 2019-01/Shade Grown Farms 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: A commercial cannabis cultivation operation in the RR zone requires a conditional use permit per Inyo County Code Section 18.21.040(I) and is therefore necessary for the operation of Shade Grown Farms.]*

## CONDITIONS OF APPROVAL

1. The applicant shall provide adequate water and septic systems, public restrooms, and a plan for pesticide and fertilizer use, storage and removal to the satisfaction of the Inyo County Environmental Health Department prior to any Building Permits being granted. Failure to provide shall also cause revocation of CUP 2019-01/Shade Grown Farms.

2. **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 2019-01/Shade Grown Farms. The County reserves the right to prepare its own defense.

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

If there are any questions regarding the above information, please contact the Planning office at (760) 878-0263.

Respectfully,

Cathreen Richards

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

**Phone:** (760) 878-0263
(760) 872-2706
**FAX:** (760) 878-0382
**E-Mail:** inyoplanning@inyocounty.us

**AGENDA ITEM NO.** **10** (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** **October 27, 2021**

**SUBJECT:** Zone Text Amendment 2021-01/Inyo County Outdoor Lighting

## EXECUTIVE SUMMARY

Staff has intermittently been working on Dark Skies issues and an outdoor lighting ordinance for the County for several years. This work has been interrupted several times by staff reductions and Covid. Currently, a draft outdoor lighting ordinance has been prepared for the Planning Commission's consideration of a recommendation to the Board of Supervisors for adoption.

## PROJECT INFORMATION

| | |
|---|---|
| **Supervisorial District:** | County-wide |
| **Applicants:** | Inyo County |
| **Landowners:** | Multiple |
| **Address/** | |
| **Community:** | County-wide |
| **A.P.N.:** | County-wide |
| **Existing General Plan:** | N/A |
| **Existing Zoning:** | N/A |
| **Surrounding Land Use:** | N/A |
| **Recommended Action:** | **Adopt the attached Resolution, recommending that the Board of Supervisors:** |

1.) **Find the proposed project exempt from the requirements of the California Environmental Quality Act.**

2.) **Make certain Findings with respect to, and approve, Zone Text Amendment ZTA/2021-01/Inyo County Outdoor Lighting**

**Alternatives:**

1.) Recommend modifications to the proposal.

2.) Recommend denial.

3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

**Project Planner:** Cathreen Richards

**BACKGROUND**

The Inyo County General Plan Chapter 8.8 - Visual Resources, Policy 1.6 Light and Glare, has addressed outdoor lighting, since 2002, which reads:

Control of Light and Glare
*The County shall require that all outdoor light fixtures including street lighting, externally illuminated signs, advertising displays and billboards use low-energy, shielded light fixtures which direct light downward (i.e. lighting shall not emit higher than a horizontal level) and which are fully shielded. Where public safety would not be compromised, the County shall encourage the use of low-pressure sodium lighting for all outdoor light fixtures.*

This has never been implemented by the Code as regulations regarding outdoor lighting have never been added to it to do so.

In June of 2018, after presentations to the Board of Supervisors from the Inyo County Dark Sky Group (ICDSG) and planning department staff, the Board directed staff to continue researching outdoor lighting issues and conduct community workshops to get local input on the level of interest in dark skies and outdoor lighting regulations. In October of 2018, staff conducted three public workshops. Then, in February of 2019, staff conducted a workshop with the Planning Commission, where staff presented the public input received, as well as gave the Commission and the attending public an overview of the issues and opportunities relating to outdoor lighting. Finally, in November 2019, staff compiled the key points that the public expressed interest in and shared it with the Board of Supervisors. The Board directed staff to continue to work on an outdoor lighting ordinance that focused on reducing light trespass and pollution where State regulations might fall short, but are not too prescriptive in the methods to achieve this goal. This is essentially where the process stopped.

Based on the community workshops in Bishop, Lone Pine and Independence, the public is very interested in preserving the resource of Inyo County's dark skies, both for the enjoyment of residents and as a potential tourist attraction. Issues of glare, light trespass and the intensity of LED lighting at the bluer end of the spectrum were some of the primary concerns raised at the public meetings and echoed at the Planning Commission and Board workshops. It became evident at these meetings, and based on further research, that staff needed to get a more complete understanding of what was already covered by California Building Standards, and then make proposals that related to the issues that were unregulated by State law. Staff completed the research on how State law already regulates outdoor lighting and found the regulations are currently very comprehensive. This information has resulted in staff preparing an outdoor lighting ordinance that focuses on the elimination of light nuisances, pollution and the preservation of the night sky that can be enforced by the County.

**ANALYSIS**

Planning, Building and Safety and County Counsel staff reviewed the present status of lighting regulations, as well as, reviewed the outdoor lighting standards of other jurisdictions and the comments received by the public. With this information, a draft ordinance has been prepared for the Planning Commission's review and possible recommendation to the Board of Supervisors for approval. As directed by the Board, this ordinance focuses on results more than methods and it directly implements General Plan Policy Visual Resources 1.6 Control of Light and Glare. The proposed ordinance (Attached) includes sections for:

- Purpose and application
- Definitions
- Applicability
- Exemptions
- General Requirements
- Outdoor Lighting Plans
- Prohibitions
- Signs
- Outdoor Performance, Sport and Recreation Facilities
- Energy Conservation
- Violations and Penalties

These elements can be found in the attached Draft ordinance. Highlights of the ordinance include:

- The purpose statement:
  1. *Promote a safe and pleasant nighttime environment for residents and visitors;*
  2. *Eliminate nuisances caused by unnecessary light intensity, direct glare, and light trespass;*
  3. *Protect the ability to view the night sky by restricting unnecessary upward projection of light;*
  4. *Remove existing nonconforming outdoor lighting that violates this chapter;*
  5. *Promote lighting practices and systems that conserve energy.*

- The applicability of the ordinance, which addresses both new and existing outdoor lighting.
- Definitions, this is an important element of the draft ordinance as the regulations are based on the elimination of light trespass and pollution. These definitions include:
    - *"Light Trespass" means artificial light or illuminance that falls beyond the property it is located on, generally light from one property that shines onto another property or the public right of way. The amount of trespass shall be expressed in foot-candles (fc) as measured with a light meter and shall be limited to no more than 0.5 fc at the property line on which the light is located. Field measurements to determine light trespass compliance shall not include the effect of light produced by street lights.*
    - *"Light Pollution" means any adverse effect of artificial light sources including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, uncontrolled up-lighting, or any artificial light that diminishes the ability to view the night sky.*
- Exemptions from the County's ordinance (these are based on state regulations) with the addition of language related to night time flag illumination. This was included as the Flag of the United States must either be taken down at night or be illuminated. Local jurisdictions can regulate this. The draft code includes: *Night time illumination of the United States and State of California flags shall be limited to lighting the area of the flag without trespass and any up-lighting shall be at a temperature of no more than 3,000-kelvins.*

- The actual requirements with regard to:
    - Nuisance prevention
    - Maintenance
    - Lighting levels
    - Fixture types
    - Accent lighting.

  are also included.

- Outdoor lighting plans are required.
  Including this will result in lighting plans being required for new development and/or redevelopment, as well as for discretionary land use entitlements. As appropriate, applicants for new or substantial remodeling of residential buildings, subdivisions, conditional use permits, Lone Pine Design Review, General Plan and/or zone reclassifications will be required to submit the manufacturer specification sheets for the planned lighting and an illustration of the location, height and aiming point of all proposed outdoor lighting.

- With regard to existing lighting, the proposed ordinance includes:
  *Existing nonconforming outdoor lighting fixtures that were not regulated by previous development codes shall be allowed continued use, except that the lighting shall not be structurally altered so as to extend its useful life, aside from regular maintenance. If the Planning or Public Works Director determines that a*

*nonconforming lighting fixture results in light pollution or light trespass, the Director may require the light to either be shielded, filtered, redirected, replaced with a less intense light source or otherwise modified (including removal if necessary) to eliminate the light pollution or light trespass.*

In addition to the proposed outdoor lighting ordinance, staff is also suggesting that the County further evaluate changing the lighting zone established by the State for energy standards, found around the City of Bishop to a lower lighting category (map attached). Lighting areas are established by the California Energy Commission for all areas in the State. They are defined by Census Bureau urban and rural definitions. This is mostly driven by established Census geography and the number of people residing within it and not the actual characteristics of the area. The Zones are:

- Lighting Zone 1: areas that are developed portions of government designated parks, recreation areas and wildlife preserves;
- Lighting Zone 2: Rural areas
- Lighting Zone 3: Urban areas
- Lighting Zone 4 is a special use district that may be created by a local government through application to the Energy Commission.

The area defined as urban includes most of the City of Bishop, the Bishop Paiute Tribal land and the unincorporated County in west Bishop and the Meadow Creek area. A process set forth by the Energy Commission is required to change the lighting zone. This process is much easier for a down zone than an up zone. Staff is proposing to work with the City of Bishop and the Bishop Paiute Tribe as their interest allows. The County, however, can only request the change for the area under its jurisdiction.

**ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the Common Sense Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This project is a proposal to add regulations regarding outdoor lighting, light trespass and pollution. It includes no development proposals or any increases in allowed uses or densities and will result in less impacts to people and wildlife as night time lighting will be reduced.

**RECOMMENDATIONS**

Staff recommends adoption of the attached Resolution recommending the Board of Supervisors consider the ZTA 2021-01, make certain findings, and adopt the proposed ordinance adding Chapter 18.74 to the Inyo County Code.

Recommended Findings

1. The proposed ordinance is covered by the Common Sense Rule 15061(b)(3) *[Evidence: the proposed ordinance is covered by the* Common Sense Rule *15061(b)(3) that states CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a*

*significant effect on the environment, the activity is not subject to CEQA. This project is a proposal to add regulations regarding outdoor lighting, light trespass and pollution. It includes no development proposals or any increases in allowed uses or densities and will result in less impacts to people and wildlife as night time lighting will be reduced.]*

2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.
   *[Evidence: Adding Chapter 18.74 – Outdoor Lighting, to the Inyo County Code is consistent with the Goals and Policies of the General Plan as it implements General Plan Policy 1.6 Light and Glare and does not conflict with other General Plan policies. It will also further existing General Plan policies related to visual resources, wildlife protection and increasing recreation opportunities.]*

3. Based on substantial evidence in the record, the proposed Zoning Ordinance to add Chapter 18.74 to the Inyo County Code is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.
   *[Evidence: Zone Text Amendment 2021-01 is consistent with the Inyo County Zoning code as adding Chapter 18.74 does not discontinue or expand an allowed use, nor does it conflict with other regulations related to lighting, in any of the County's Zoning Districts. It does, instead, implement a General Plan policy and allow the County to reduce light trespass and pollution.]*

**ATTACHMENTS**

- Draft proposed ordinance
- Resolution
- Map

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, ADDING CHAPTER 18.74 OUTDOOR LIGHTING TO THE INYO COUNTY CODE.

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

**SECTION ONE:** Chapter 18.74 shall be added to the Inyo County Code to read as follows:

Chapter 18.74 Outdoor Lighting


**18.74.010. Purpose and Application.**
**18.74.020. Definitions.**
**18.74.030. Applicability.**
**18.74.040. Exemptions.**
**18.74.050. General Requirements.**
**18.74.060. Outdoor Lighting Plans.**
**18.74.070. Prohibitions.**
**18.74.080. Signs.**
**18.74.090. Outdoor Performance, Sport and Recreation Facilities.**
**18.74.100. Energy Conservation.**
**18.74.110. Violations and Penalties.**


18.74.010 Purpose and application.
The purpose of this chapter is to provide regulations for outdoor lighting within Inyo County in order to:

1. Provide a safe and pleasant nighttime environment for residents and visitors;
2. Eliminate nuisances caused by unnecessary light intensity, direct glare, and light trespass;
3. Protect the ability to view the night sky by restricting unnecessary upward projection of light;
4. Remove existing nonconforming outdoor lighting that violates this chapter;
5. Promote lighting practices and systems that conserve energy.

These general provisions serve as specific development standards to be applied in addition to the basic provisions within each zoning district in the County and the California Uniform Building Code.

18.74.020 Definitions. The following terms have the following meanings in this chapter:

1. "Fixture" means a complete lighting unit including the lamp and parts designed to distribute the light, position and protect the lamp, and connect the lamp to a power source - also referred to as a "luminaire."
2. "Foot-candle (fc)" means a unit of measurement for the total amount of light cast on a surface (illuminance). One foot-candle is equivalent to the illuminance produced by a source of one candle at a distance of one foot.
3. "Full Cutoff Fixture" means a lighting fixture designed such that no light, either directly from the bulb or indirectly from the fixture, is emitted at or above a horizontal plane running through the lowest point on the fixture.
4. "Glare" means strong and dazzling light and/or direct and unshielded light striking the eye to result in visual discomfort and reduced visual performance.
5. "Lamp" means an artificial light source installed in the socket portion of the fixture, to be distinguished from the whole assembly - commonly referred to as a "bulb."
6. "Light Pollution" means any adverse effect of artificial light sources including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, uncontrolled up-lighting, or any artificial light that diminishes the ability to view the night sky.
7. "Light Trespass" means artificial light or illuminance that falls beyond the property it is located on, generally light from one property that shines onto another property or the public right of way. The amount of trespass shall be expressed in foot-candles (fc) as measured with a light meter and shall be limited to no more than 0.5 fc at the property line on which the light is located. Field measurements to determine light trespass compliance shall not include the effect of light produced by street lights.
8. "Lumen" means the unit used to quantify the amount of light energy produced by a lamp. For example, a 40-watt incandescent lamp produces approximately 400 lumens, while a 35-watt high-pressure sodium lamp produces about 2,300 lumens.
9. "Outdoor Lighting Fixture" means any temporary or permanent lighting fixture that is installed, located, or used in such a manner to provide illumination of objects or activities outside. Outdoor lighting fixtures include all fixtures mounted to the exterior of a structure, poles, bollards, or other freestanding structures, or placed so as to provide direct illumination on any exterior area or activity.
10. "Shielding" means a barrier around or within a fixture that helps conceal the lamp and control light distribution. A fixture that is "fully shielded" incorporates a solid barrier, emits no light rays above the horizontal plane and effectively obscures visibility of the lamp. A fixture that is "partially shielded" may allow some light to pass through a semi-translucent barrier, and/or may allow visibility of the lamp from certain perspectives.
11. "Temporary Lighting" means lighting that is intended to be used for a special event for up to ten days.

18.74.030 Applicability.

1. New Outdoor Lighting. All outdoor lighting fixtures installed after the effective date of this chapter shall conform to the requirements established by this chapter.
2. Existing Outdoor Lighting. All existing outdoor lighting fixtures installed prior to the effective date of this chapter shall be addressed as follows:
    a) All existing outdoor lighting fixtures located on a property that is part of an application for a Conditional Use Permit; Subdivision approval; Lone Pine Design Review; or, a building permit for any new structure, or new or modified exterior light fixtures, or any addition(s) of gross floor area, seating capacity, or parking spaces (either with a single addition or cumulative additions), shall meet the requirements of this chapter for the entire property. Such applications are required to include an outdoor lighting plan pursuant to section 18.74.060. Conformity shall occur prior to final inspection, or final map recordation when applicable.
    b) Existing nonconforming outdoor lighting fixtures that were not regulated by previous development codes shall be allowed continued use, except that the lighting shall not be structurally altered so as to extend its useful life, aside from regular maintenance. If the Planning or Public Works Director determines that a nonconforming lighting fixture results in light pollution or light trespass, the Director may require the light to either be shielded, filtered, redirected, replaced with a less intense light source or otherwise modified (including removal if necessary) to eliminate the light pollution or light trespass.

18.74.040 Exemptions.

The following are exempt from the provisions of this chapter:

1. Seasonal displays using multiple low-wattage bulbs (approximately 15 lumens or less), provided that they do not constitute a fire hazard, create a nuisance, and are maintained in a safe condition.
2. Vehicular lights and all temporary emergency lighting needed by law enforcement, Fire Protection Districts, or other emergency services.
3. All temporary lighting used for the construction or repair of roadways, utilities, and other public infrastructure.
4. All lighting required by state or federal regulatory agencies.
5. Illuminated address signs at no more than 15 lumens.
6. Night time illumination of Untied States and State of California flags shall be limited to lighting the area of the flag without trespass and any up-lighting shall be at a temperature of no more than 3,000-kelvins.

The Planning or Public Works Director may authorize minor deviations when proposed outdoor lighting does not conflict with the purposes of this chapter. An application for such a deviation must be made in writing and include an outdoor lighting plan pursuant to sections 18.74.050 and 18.74.060. Temporary lighting for special events shall also be reviewed in this manner.

18.050 General Requirements.

The following general standards apply to all non-exempt outdoor lighting fixtures:

1. Nuisance prevention. All outdoor lighting fixtures shall be designed, located, installed, aimed downward or toward structures, retrofitted if necessary, and maintained in order to prevent glare, light trespass, and light pollution.
2. Maintenance. Fixtures and lighting systems shall be in good working order and maintained in a manner that serves the original design intent of the system.
3. Fixture Types. All new outdoor lighting shall use full cutoff luminaires with the light source downcast and fully shielded with no light emitted above the horizontal plane, with the following exceptions:
   a) Fixtures that have a maximum output of 100 lumens (equivalent to one 10-watt incandescent bulb) or less, regardless of the number of bulbs, may be left unshielded provided the bulb surfaces are obscured from off-site visibility with a semi-translucent or frosted glass that has an opaque top to prevent the light from shining directly up. However, partial or full shielding is preferred to control light output in all situations.
   b) Fixtures that have a maximum output of 600 lumens (equivalent to one 40-watt incandescent bulb) or less shall be partially or totally shielded using a solid or semi-translucent barrier, provided that the lamp is not visible from off site, no direct glare is produced, and the fixture has an opaque top to keep light from shining directly up; e.g., a low output-style wall pack.
   c) Floodlights that do not meet the definition of "full cutoff" may be used if permanently directed downward, if no light is projected above the horizontal plane, and if and fitted with external shielding to prevent glare and off-site light trespass. Unshielded floodlights are prohibited.
4. Accent Lighting. Residential accent lighting shall be limited to street address illumination. LED-type accent lighting is preferred. Commercial accent lighting may be permitted in conjunction with a sign permit. Limited architectural features may be illuminated by up-lighting, provided that the light is effectively contained by the structure, the lamps are low intensity to produce a subtle lighting effect, and no glare or light trespass is produced. For statues, public art, or other objects of interest that cannot be illuminated with down-lighting, upward lighting may be used only in the form of one narrow-cone spotlight that confines the illumination to the object of interest.

The provisions of this chapter are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed herein, provided that the Planning or Public Works Director has approved any such alternative. An alternative proposal may be approved if it provides at least approximate equivalence to the applicable specific requirements of this chapter or if it is otherwise satisfactory and complies with the intent of this chapter.

Inyo County reserves the right to further restrict outdoor lighting including, but not limited to, pole height and level of illumination, when it is deemed in the public interest consistent with the purpose of this chapter.

18.74.060 Outdoor Lighting Plans.

An outdoor lighting plan shall be submitted, as appropriate, in conjunction with an application for: a Conditional Use Permit; Subdivision approval; Lone Pine Design Review; Zoning or General Plan designation amendments; or, a Building Permit for any new structure, or new or modified exterior light fixtures, or any addition(s) of gross floor area, seating capacity, or parking spaces (either with a single addition or cumulative additions). An outdoor lighting plan is required for all new outdoor lighting installations on residential, commercial, industrial, public and institutional properties. The Planning or Public Works Director may request outdoor lighting plans from applicants for other types of projects due to project location, size, or proposed use, as necessary. An outdoor lighting plan shall include at least the following:

a) Manufacturer specification sheets, cut-sheets, or other manufacturer-provided information for all proposed outdoor lighting fixtures to show fixture diagrams and light output levels;
b) The proposed location, mounting height, and aiming point of all outdoor lighting fixtures (a site plan is preferred); and
c) If building elevations are proposed for illumination, drawings for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, the illuminance level of the elevations, and the aiming point for any remote light fixture.

If needed to review the proposed outdoor lighting fixture installation, the Planning or Public Works Director may require additional information following the initial outdoor lighting plan submittal, including but not limited to a written narrative to demonstrate the objectives of the lighting, Photometric data, Color Rendering Index (CRI) of all lamps and other descriptive information on the fixtures, computer-generated photometric grid showing foot-candle readings every 10 feet within the property or site and 10 feet beyond the property lines (an iso-foot-candle contour line-style plan may be acceptable), and/or landscaping information to describe potential screening.

The Planning or Public Works Director may approve, deny, or require modifications to any outdoor lighting plan in order to meet the purpose of this chapter.

18.74.070 Prohibitions.

1. The installation of any new fixture not in conformance to this chapter is prohibited.
2. No outdoor lighting fixtures shall be installed, aimed, or directed to produce light that constitutes light pollution or trespass into neighboring properties or the public right of way.

3. No outdoor lighting fixture may be installed or maintained in such a manner to cause glare visible from off the property.
4. No outdoor lighting fixture may be operated in such a manner as to constitute a hazard or danger to persons, or to safe vehicular travel.
5. Blinking, flashing, moving, revolving, flickering, changing-intensity, and changing-color lights and internally illuminated signs are prohibited unless permitted pursuant to Inyo County Code Chapter 18.75.
6. The installation of new mercury vapor and/or low-pressure sodium lamps is prohibited.
7. Search lights, laser source lights, or any similar high-intensity light is prohibited except in emergencies by police and fire personnel or at their direction, or for approved temporary lighting.
8. Streetlights shall be down directed with complete horizontal shielding of the reflective surface and no higher than 17 feet from the bottom of the shielded fixture surface with a maximum 150-watt lamp. Greater height may be granted by the County Public Works Director for safety or adopted minimum highway standards.

18.74.080 Signs.

All outdoor lighting for commercial signs installed and maintained pursuant to Chapter 18.75 shall conform to the provisions of this chapter.

18.74.090 Outdoor Performance, Sport and Recreation Facilities.

Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be mounted, aimed, and shielded so that their beams fall within the primary playing area and immediate surroundings, and so that no light trespass is produced.

The main lighting shall be turned off as soon as possible following the end of an event. Where feasible, a low-level lighting system shall be used to facilitate patrons leaving the facility, cleanup, nighttime maintenance, and other closing activities.

18.74.100 Energy Conservation.

All outdoor lighting fixtures shall conform to the requirements of Title 24 the California Energy Code.

18.74.110 Violations and Penalties.

It shall be unlawful to install or operate any outdoor lighting fixture in violation of this chapter. Any person violating any provisions of this chapter may be subject to the provisions of the Inyo County Code Title 22. In addition, any outdoor lighting fixture erected or maintained contrary to the provisions of this chapter may be declared to be a public nuisance subject to the procedures set forth Title 22. Such remedies are in addition to and may be sought or imposed concurrently with any other remedy provided by law, regulation or ordinance.

**RESOLUTION NO. _____**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF INYO, STATE OF CALIFORNIA, RECOMMENDING THAT THE BOARD OF SUPERVISORS CERTIFY THAT ZONE TEXT AMENDMENT 2021-01/INYO COUNTY- OUTDOOR LIGHTING IS EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING CERTAIN FINDINGS WITH RESPECT TO AND APPROVING ZONE TEXT AMENDMENT NO. 2021-01/INYO COUNTY- OUTDOOR LIGHTING**

WHEREAS, the County of Inyo ("County") desires to add a chapter to the Inyo County Code Title 18 (Zoning) relating to outdoor lighting;

WHEREAS, the County intends to regulate outdoor lighting in all zoning districts;

WHEREAS, the purpose of this ordinance is to provide the requirements and standards for outdoor lighting within the unincorporated areas of Inyo County to help to ensure that outdoor lighting is not a nuisance due to unnecessary light intensity, direct glare, and light trespass;

WHEREAS, the Inyo County Board of Supervisors, through Inyo County Code (ICC) Section 15.12.040, has designated the Planning Commission to serve as the Environmental Review Board pursuant to Section 15022 of the California Environmental Quality Act (CEQA) Guidelines, which is responsible for the environmental review of all County projects;

WHEREAS, Pursuant to the CEQA, the proposed ordinance is covered by the Common Sense Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA;

WHEREAS, on October 27, 2021, following a noticed public hearing the Inyo County Planning Commission recommended that this Board of Supervisors:

1. Certify that the proposed project is exempt from the requirements of CEQA.
2. Make certain findings with respect to and approve Zone Text Amendment 2021-01/Inyo County – Outdoor Lighting, based on all of the information in the public record and on the recommendation of the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that based on all of the written and oral comment and input received at the October 27, 2021 hearing, including the Planning Department Staff Report, this Planning Commission makes the following findings:

**RECOMMENDED FINDINGS**

1. The proposed ordinance is covered by the General Rule 15061(b)(3) that states CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.

3. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors take the following actions:

1. Certify ZTA No. 2021-01/Inyo County – Outdoor Lighting is exempt from CEQA, per the Common Sense Rule.

2. Make certain findings with respect to, and approve ZTA No. 2021-01/Inyo County – Outdoor Lighting, based on all of the information in the public record and on recommendation of the Planning Commission.

PASSED AND ADOPTED THIS OCTOBER 27, 2021 by the following vote of the Inyo County Planning Commission:

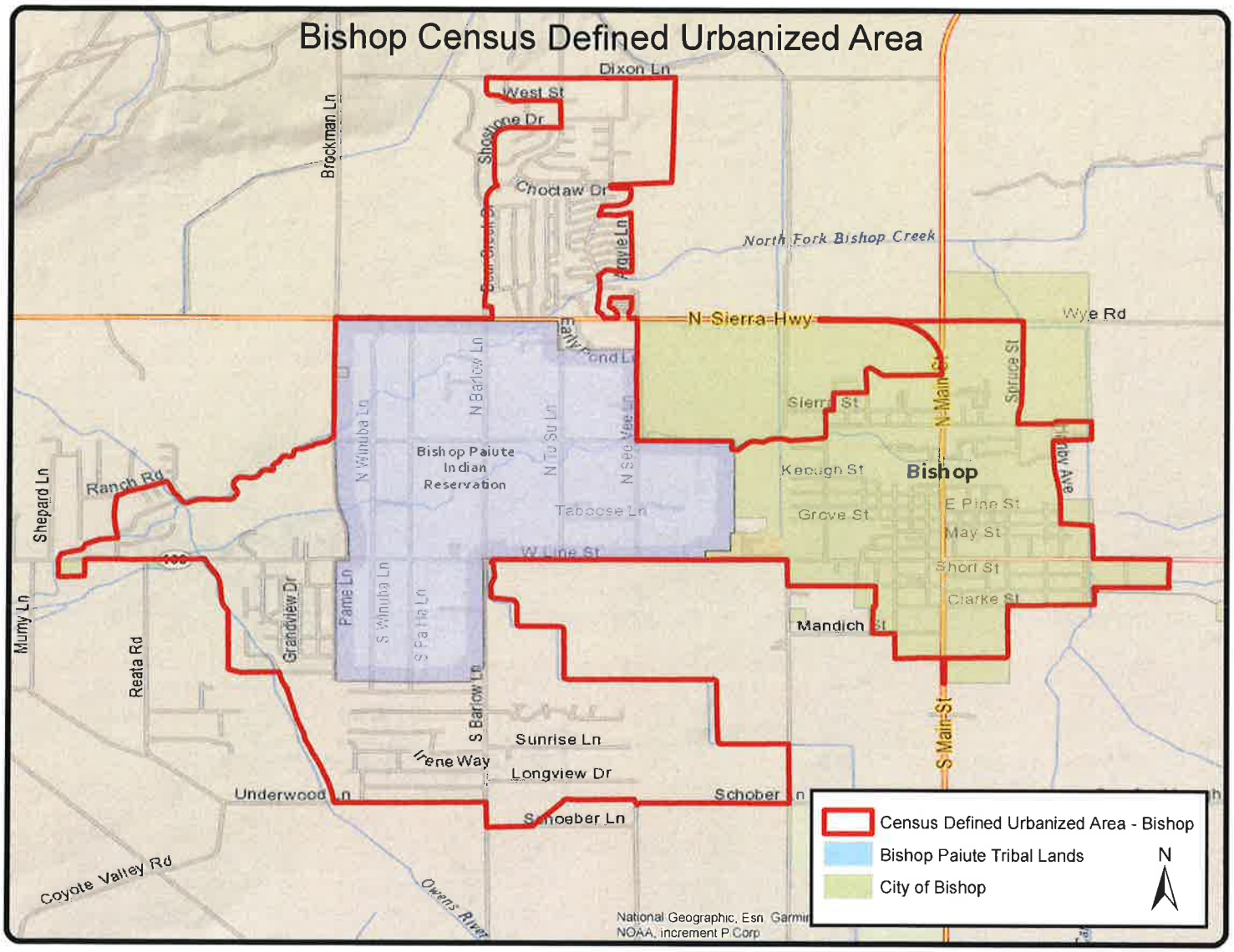
AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Caitlin Morley, Chairperson
Inyo County Board of Supervisors

ATTEST:

Cathreen Richards
Planning Director

By _____
Paula Riesen, Secretary of the Commission


Bishop Census Defined Urbanized Area
Dixon Ln
West St
Brockman Ln
Choctaw Dr
North Fork Bishop Creek
N Sierra Hwy
Wye Rd
Spruce St
N Main St
Sierra St
Keough St
Bishop
Grove St
E Pine St
May St
Short St
Clarke St
Mandich St
S Main St
Bishop Paiute Indian Reservation
N Barlow Ln
N Winuba Ln
N Tu Su Ln
N Seq Vee Ln
Taboose Ln
W Line St
Ranch Rd
Shepard Ln
Mumy Ln
Reata Rd
Grandview Dr
Pame Ln
S Winuba Ln
S Barlow Ln
Sunrise Ln
Irene Way
Longview Dr
Underwood Ln
Schober Ln
Coyote Valley Rd
Owens River
Census Defined Urbanized Area - Bishop
Bishop Paiute Tribal Lands
City of Bishop
N
National Geographic, Esri, Garmin
NOAA, increment P Corp