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AGENDA ITEM NO. 5 (Action Item – Public Hearing)

**PLANNING COMMISSION
MEETING DATE:**

December 1, 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. Staff brought this item to the Planning Commission on October 27, 2021 for a hearing on a resolution with a recommendation to the Board of Supervisors for approval. Due to time constraints and unaddressed comments the hearing was continued until December 1, 2021.

PROJECT INFORMATION

Supervisory District: County-wide

Applicants: Inyo County

**Landowners:
Address/** Multiple

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.

COMMENTS

As previously mentioned, staff presented the ordinance as outlined above. Two comment letters were received regarding the Draft ordinance (attached). A summary of comments and responses are as follows:

Inyo County Dark Sky Group

- Put a total cap on lumens per acre and enlist an environmental monitoring program.
 - *Systems such as these are beyond the scope of direction received from the Board of Supervisors for outdoor lighting as well as beyond staff resources.*
- Unclear on what areas/zoning designations the ordinance applies to.
 - *It applies to all private property in the unincorporated county and zoning districts with the exception of federal, state, tribal and other jurisdiction's lands.*
- Include a statement addressing sensitive areas, tourism, and economy. A comment was also included to mention the effects on nocturnal species.
 - *A long narrative addressing these issues in detail is not really appropriate for the zoning code. The Purpose and Application 18.74.010*

section includes: Provide a pleasant nighttime environment for residents and visitors. This covers most of the above with the exception of sensitive areas and nocturnal species. Staff is proposing to add #6 under the Purpose and Application section to read:

Protect sensitive areas and nocturnal species that can be harmed by unregulated nighttime lighting.

- Also under 18.74.010 #3, a comment was submitted regarding the statement: ‘Protect the ability to view the night sky by restricting unnecessary upward projection of light’. A suggestion was offered to remove the word unnecessary as any upward lighting should be unnecessary unless covered by an exemption.
 - Staff has changed the Draft language to state: ‘*Protect the ability to view the night sky by restricting the upward projection of light*’
- With regard to Section 18.74.040 Exemptions #6, a comment was offered addressing the 3,000 kelvin limit put on flag lighting and a recommendation for a lumen or wattage measurement was requested.
 - *Flag illumination is regulated by the State’s BUG rating system that already includes a lumen measurement. By adding a temperature limitation as well, the County is going a bit beyond the minimum.*
- A comment/question addressing 18.74.050 3a asks if this refers to string lights and if the allowance ‘regardless of the number of bulbs’ is also restricted by the 0.5 fc at the property line as stated in the Definitions section.
 - *The answer is no if they are part of a holiday display, because holiday displays are exempted under 18.74.040 (1), and yes to other types. The fixture type addressed here is understood to cover string light fixtures such as yard and party string lights. Staff is adding to 18.74.050 #3, for clarification, to read:*
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 such as yard and party string lights, 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.
- Under Prohibitions 18.74.070 #8 that addresses streetlights, a question about the wattage (150) that was suggested in the draft ordinance was offered, as well as, a narrative about LADWP’s street light practices.
 - *Staff cannot answer for DWP’s practices regarding their complaint driven streetlight policy. Safety lighting for street lights and egress lighting is regulated by the state with a BUG rating system. This is not expressed in wattage, though; therefore, staff has updated the Draft ordinance to:*

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 of 5fc at the surface. Greater height may be granted by the County Public Works Director for safety or adopted minimum highway standards.

Death Valley National Park

Death Valley National Park is designated as a Dark Sky Park by the National Park system. They provided comments on the draft ordinance.

- The County should limit the shortwave length of lighting (blue spectrum) to effectively reduce it.
 - *This is unnecessary as the State's BUG rating system covers this and since lighting plans will be required under the ordinance the county will be reviewing to ensure the requirements are met.*
- Landscape lighting should be clearly defined and restricted.
 - *Landscape lighting is addressed under 18.74.050 General Requirements #3 and requires full cutoff luminaires with the light source downcast and fully shielded with no light emitted above the horizontal plane, with some exceptions.*
- Flag Exemption, the comment addresses up lighting and recommends that it not be allowed.
 - *Federal law requires that up lighting of the flag of the United States be allowed.*
- Billboard Lighting, the Park is suggesting only allowing lights at the top of the billboard, pointed downward and fully shielded. They also provided a comment addressing electronic message boards.
 - *Both of these sign types are regulated under the County's sign ordinance. 18.75.090 Illumination of Signs states:*
 - A. No sign may be illuminated by intermittent light (flashing sign).*
 - B. Only billboards, monument signs and wall signs may be externally illuminated.*
 - C. Business signs may be illuminated only during the hours of operation of the business to which the sign refers.*
 - D. Only signs displaying a property address may be illuminated in any residential zone district.*

The proposed lighting ordinance 18.74.080 provides that: All outdoor lighting for commercial signs installed and maintained pursuant to Chapter 18.75 shall conform to the provisions of this chapter (Signs). This way any lights on signs must follow the standards included in both 18.75 and 18.74. The County can also look into the suggestion for down lighting -only on billboards through an update to the sign ordinance.

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