

Item # 12C

**City of Carson City
Agenda Report**

Date Submitted: June 12, 2007

Agenda Date Requested: June 21, 2007

Time Requested: 30 minutes

To: Mayor and Board of Supervisors

From: Planning Division, Development Services

Subject Title: Action to approve a moratorium from approving Adult Entertainment Facilities with the length of the moratorium being 90 days. The purpose for the moratorium is to revise CCMC Title 18, specifically 18.03.010 Definitions-Adult Entertainment Facilities. (File MISC-07-092)

Staff Summary: The purpose for this action is to place a 90 day moratorium for approving Adult Entertainment Facilities, and time to revise CCMC Title 18.03.010 Definitions-Adult Entertainment Facilities.

Type of Action Requested:

- Resolution
- Formal Action/Motion
- Ordinance
- Other

Does This Action Require A Business Impact Statement: Yes No

Planning Commission Action: Recommended approval April 25, 2007 by the Carson City Planning Commission by a vote of 7 Ayes, 0 Nays.

Recommended Board Action: I move to approve a moratorium from approving Adult Entertainment Facilities with the length of the moratorium being 90 days. The purpose for the moratorium is to revise CCMC Title 18, specifically 18.03.010 Definitions-Adult Entertainment Facilities.

Explanation for Recommended Board Action: The Board of Supervisors has the authority to approve all moratoriums in Carson City.

Applicable Statute, Code, Policy, Rule or Regulation: CCMC Title 18.03.010

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

- Alternatives:**
- 1) Refer the matter back to Planning Commission for further review.
 - 2) Deny

Supporting Material: Staff Report

Prepared By: Donna Fuller, Administrative Services Manager

Reviewed By:

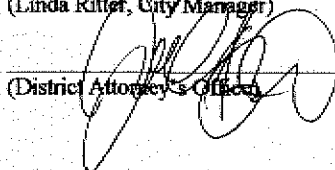

(Walter Sullivan, Planning Director)

Date: 6-12-07

(Larry Werner, Development Services Director/City Engineer)


(Linda Ritter, City Manager)

Date: 6-12-07


(District Attorney's Office)

Date: 6-17-07

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)



CARSON CITY, NEVADA

CONSOLIDATED MUNICIPALITY AND STATE CAPITAL
DEVELOPMENT SERVICES

TO: Mayor and Board of Supervisors
City Manager

FROM: Planning Director *WJ*

DATE: May 29, 2007

SUBJECT: 90-Day Moratorium on Approval of Adult Entertainment Facilities

Staff presented, at the April 25, 2007, Planning Commission meeting, a memorandum and resolution regarding a 90-day moratorium on the approval of adult entertainment facilities. The moratorium is necessary to allow staff (the District Attorney's Office and Planning Division) to develop new ordinance language to address sections in Title 18 which staff considers weak as to the protection of the public's health, safety and general welfare.

The Commission received the staff report and discussion was held. Public testimony was requested and received (see draft of Planning Commission Minutes of the April 25, 2007 meeting). The vote of the Commission to adopt Planning Commission Resolution #9 was 7 ayes, 0 nays for adoption.

The staff will schedule a public hearing before the Board on June 21, 2007. All required noticing will be completed prior to the meeting. At this meeting the Board will be requested to declare a 90-day moratorium regarding the approval of adult entertainment facilities for the purpose as stated above.

Should you have any questions, call me at 887-2180.

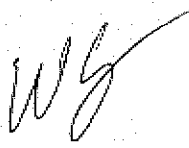
Enclosures: Planning Commission Staff Report and Copy of Signed Resolution
Draft Planning Commission Minutes of April 25, 2007 Meeting
Copy of CCMC Title 18, Section 18.02.120, 18.03.010

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MEMORANDUM

H-6

Date: April 25, 2007
To: Planning Commission
From: Planning Division 
Re: Adult Entertainment Facilities Moratorium

Staff is requesting a moratorium on the approval of adult entertainment facilities in order for staff to amend the Carson City Municipal Code Section 18.03.010. The request to revise applicable sections of the Master Plan and Title 18 Zoning, Section 18.03.010 Definitions is necessary to place performance standards in said code section to promulgate the public's health, safety and welfare. Staff intends to revise aspects of the "primary purpose" use of a retail facility and accordingly, place performance standards as stated above.

In order to proceed with code revisions, staff is requesting a 90 day moratorium from the Board of Supervisors from approving adult entertainment facilities. A resolution recommending a moratorium from the Planning Commission is necessary pursuant to Carson City Municipal Code Section 18.02.120 (enclosed).

RECOMMENDED MOTION: "I MOVE TO ADOPT PLANNING COMMISSION RESOLUTION NUMBER 9 AND TO RECOMMEND TO THE BOARD OF SUPERVISORS A 90 DAY MORATORIUM FROM APPROVING ADULT ENTERTAINMENT FACILITIES IN ORDER FOR STAFF TO REVISE CARSON CITY MUNICIPAL CODE, TITLE 18 ZONING, TO INCLUDE PERFORMANCE STANDARDS WHICH WILL PROMOTE THE PUBLIC'S GENERAL HEALTH, SAFETY AND WELFARE, THAT THE MORATORIUM IS NECESSARY TO PERMIT STAFF TO FOCUS ON THE EFFECTIVE PREPARATION OF APPLICABLE SECTIONS OF THE MASTER PLAN AND MUNICIPAL CODE, TITLE 18 ZONING, WHICH IMPLEMENTS THE MASTER PLAN'S GOALS, AND THAT THE MORATORIUM IS NECESSARY BECAUSE CONTINUED DEVELOPMENT DURING THE PROPOSED MORATORIUM PERIOD COULD POSSIBLY RESULT IN DEVELOPMENT THAT MAY BE IN CONFLICT WITH THE PLAN AND ZONING TEXT AMENDMENT."

Enclosures: CCMC 18.02.120 Moratorium

RESOLUTION NO. 2007-PC-9

**A RESOLUTION RECOMMENDING TO THE BOARD OF SUPERVISORS
A MORATORIUM FROM APPROVING ADULT ENTERTAINMENT
FACILITIES FOR A PERIOD OF 90 DAYS.**

WHEREAS, Carson City Municipal Code 18.02.120 sets forth the moratorium process for matters related to planning, zoning and land use issues; and

WHEREAS, the Planning Division intends to make possible revisions to applicable sections of the Master Plan and Title 18 relative to adult entertainment facilities and the primary purpose use of retail facilities; and

WHEREAS, the Planning Commission has given proper notice of the proposed amendment in accordance with the provisions of Carson City Municipal Code 18.02.120, and is in conformance with City and State legal requirements; and

WHEREAS, on April 25, 2007, the Planning Commission held a public hearing regarding the subject matter of this resolution, obtained public testimony, reviewed the city staff report and duly considered recommendations from staff.

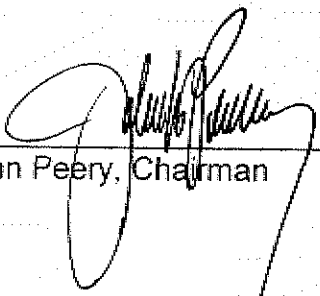
NOW, THEREFORE, the Carson City Planning Commission hereby recommends to the Board of Supervisors a moratorium from approving adult entertainment facilities for a period of 90 days.

ADOPTED this 25th day of April, 2007

VOTE: AYES: John Peery
 Mark Kimbrough
 Craig Mullet
 Roy Semmens
 Bill Vance
 Steve Reynolds
 Connie Bisbee


NAYS: None

ABSENT: None



John Peery, Chairman

ATTEST:



Walter Sullivan,
Planning Director

CARSON CITY PLANNING COMMISSION

Minutes of the April 25, 2007 Meeting

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H-6. ACTION TO APPROVE AND TO RECOMMEND TO THE CARSON CITY BOARD OF SUPERVISORS A MORATORIUM FROM APPROVING ADULT ENTERTAINMENT FACILITIES. THE LENGTH OF THE MORATORIUM IS 90 DAYS. THE PURPOSE FOR THE MORATORIUM IS TO REVISE CCMC TITLE 18, SPECIFICALLY 18.03.010, DEFINITIONS - ADULT ENTERTAINMENT FACILITIES. THE REVISION TO TITLE 18, SECTION 18.03.010 INVOLVES THE DEFINITION OF ADULT ENTERTAINMENT FACILITIES, AND WILL REWRITE SECTIONS OF SAID DEFINITION (5:04:33) - Chairperson Peery introduced this item, and cautioned the commissioners and staff with regard to its purpose. Mr. Sullivan reviewed the staff report and the pertinent agenda materials. In response to a question, Mr. Oueilhe explained that the subject item represents a proactive approach by the Planning Division to update a 20-year-old ordinance. In response to a question, Mr. Sullivan reviewed the types of facilities considered to be "adult entertainment." In response to a further question, he explained the purpose for the requested moratorium.

Chairperson Peery opened this item to public comment. (5:11:44) In response to a question, Charles Looman advised he had not reviewed the staff report. He advised of having lived in Carson City for approximately 23 years, and that he moved here because of the "family environment." He expressed concern over "allowing the camel's nose in the tent." He expressed the opinion that the existing ordinance language "works pretty good," and expressed opposition to opening any portion of the City to additional adult entertainment facilities. Mr. Sullivan requested Mr. Looman's telephone number, and explained the purpose of this agenda item. Mr. Looman expressed a preference for no adult entertainment facilities.

Chairperson Peery called for additional public comment and, when none was forthcoming, entertained a motion. **Commissioner Reynolds moved to adopt Planning Commission Resolution Number 9, and to recommend to the Board of Supervisors a 90-day moratorium from approving adult entertainment facilities in order for staff to revise Carson City Municipal Code Title 18, Zoning, to include performance standards which will promote the public's general health, safety, and welfare; that the moratorium is necessary to permit staff to focus on the effective preparation of applicable sections of the master plan and municipal code, Title 18, Zoning, which implements the master plan's goals; and that the moratorium is necessary because continued development during the proposed moratorium period could possibly result in development that may be in conflict with the plan and zoning text amendment. Commissioner Semmens seconded the motion. Motion carried 7-0.**

DRAFT

18.02.120 Moratorium. The Board may declare a moratorium on the acceptance and processing of planning applications, or permits for a specific type of application or a specific geographical area and for a specified length of time for the purposes of preparing City applications.

1. **Initiation.** Only the Board through resolution may initiate the process for declaring a moratorium for this purpose. The Commission may recommend a resolution to initiate the process for declaring a moratorium to the Board.
2. **Commission Hearing.** Should the Board initiate the process to declare a moratorium, prior to taking final action they shall first refer the matter to the Commission for a recommendation. The Commission shall then conduct a public hearing within forty-five (45) days from the date of referral by the Board.
3. **Notice of Commission Hearing.** Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation in Carson City not less than ten (10) days prior to the date of the public hearing to be conducted by the Commission. Such notice shall describe why the moratorium is being proposed, what the proposed moratorium shall affect, the area that is affected by the moratorium, the anticipated length of time of the moratorium, and other pertinent information in such a manner that the moratorium and its effects can be clearly identified.
4. **Commission Recommendation.** After completion of the public hearing by the Commission, it may recommend that the Board approve a moratorium, modify the extent and area of the moratorium, or that the moratorium not be imposed. A recommendation to declare a moratorium shall require a two-thirds (2/3) vote of the total membership of the Commission.
5. **Findings.** When making its recommendation for approval or modification, the Commission, shall, at a minimum, make the following findings of fact:
 - a. The moratorium is necessary to promote the health, safety and welfare of the area described in the moratorium declaration;
 - b. The moratorium is necessary to permit the staff, Commission, Board and public to focus on the efficient and effective preparation of an amendment to the Master Plan; and
 - c. The moratorium is necessary because continued development during the proposed moratorium period possibly would result in development that may conflict with the plan amendment.
6. **Commission Report.** Within forty-five (45) days of the action by the Commission, a report describing the proposed moratorium, discussion at the public hearing, and the action and vote by the Commission shall be transmitted to the Board. Failure to report within the time limit provided in this Subsection or failure to schedule a hearing within forty-five (45) days of the date of referral of the matter by the Board to the Commission shall constitute a recommendation not to declare a moratorium.
7. **Board Hearing.** The Director shall schedule a public hearing before the Board within thirty (30) days of receipt of the report describing the Commission's action.
8. **Notice of Board Hearing.** Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation in Carson City not less than ten (10) days prior to the public hearing date. Such notice shall describe why the moratorium is being proposed, what

the proposed moratorium shall affect, the area that is affected by the moratorium, the anticipated length of time of the moratorium, and other pertinent information in such a manner that the moratorium and its effects can be clearly identified.

9. **Required Vote.** After completion of the public hearing by the Board, it may declare a moratorium by a simple majority vote of the Board members in attendance.
10. **Affirmation of Findings.** In declaring a moratorium, the Board shall, at a minimum, affirm the findings of fact contained in the Commission's recommendation or, if the Commission did not make these findings, shall, at a minimum, make the findings of fact in Subsection 5 of this Section.
11. **Period in Effect.** A moratorium declared by the Board shall be in effect for a period of no less than ninety (90) days and no more than one hundred eighty (180) days from the date of effectuation. The Board may only extend the moratorium for an additional sixty (60) day period before holding another public hearing pursuant to the provisions of this Section.

18.03.010 Words and Terms Defined.

Abandoned means concerning a building or use, not having been developed or maintained for a stated period of time.

Abutting Commercial and Industrial Corridors to Carson City means all portions of property within 200 feet from U.S. Highway 50 East; William Street; U.S. Highway 395 or Carson Street lying between the Carson City county lines and the designated Carson City redevelopment area boundary.

Access means a clear and unobstructed usable approach of not less than 12 foot width (residential), 15 foot width (one way commercial), or 24 foot minimum width (two way) to a legally dedicated public way.

Accessory Building or Accessory Structure means a detached usual and customary building or structure associated with a permitted or conditional use, subordinate to the primary use on the same lot, including but not limited to storage, tool shop, children's playhouse, guest building, greenhouse, garage, swimming pools or similar structures 30 inches or more above ground. In calculating the size of an accessory structure, any space with a ceiling seven feet six inches or higher shall be considered habitable space and used in determining total size. An accessory building connected to a main building by a roof, breezeway or other means which is not habitable space is considered an accessory structure attached to a primary building. Each structure must meet standard setback requirements.

Accessory Farm Structure or Accessory Farm Building means a structure or building used for the housing of farm equipment or animals usually associated with a farm, including cows, horses, chickens, pigs, sheep, etc., including, but not limited to barns and coops.

Accessory Use means a use of the land that is associated with and dependent upon the existing permitted or conditional use of that parcel. An accessory use must not take place until the permitted or conditional use is established.

Action means the decision made by the reviewing authority on a land use application; the determination made and any conditions of approval.

Adjacent means, for purposes of determining setback requirements for adjacent uses, a parcel contiguous on any side or a parcel across a public or private right-of-way or access easement. Where an adjacent parcel is located across a public right-of-way, setback requirements shall be measured from the centerline of the right-of-way.

Adjacent means, for purposes of determining setback requirements, a parcel contiguous on any side or a parcel across a public or private right-of-way or access easement.

Adult Day Care Facility means an establishment in which supervised care is provided to adults.

Adult Entertainment Facility includes all theaters, bookstores, cabarets, model studios, out call business, or similar businesses which are established for the primary purpose of offering its patrons services, goods or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

1. For the purposes of this Chapter, "specified anatomical areas" shall include exposed human genitals, pubic region, buttock and female breast below a point immediately above the areola.
2. For purposes of this Chapter, "specified sexual activities" shall include any form of actual or simulated sexual intercourse, copulation, bestiality, masochism, and fondling or touching "specified anatomical areas."

3. No adult entertainment facility shall be located within 1,000 feet of a park, church, school, residential use district or other adult entertainment facility or in any general industrial district located west of the east boundary of Sections 21, 28 and 33 of T.16N., R.20 E., M.D.B & M., Sections 4, 9, 16, 21, 28 and 33 of T.15N., R.20 E., M.D.B & M., and Sections 4 and 9 of T.14N., R. 20 E.

Adult Performers means live performances, by adult persons which are characterized by either the exposure of specific anatomical areas and/or by specific sexual activities; with specific anatomical areas and specific sexual activities being defined by Subsections 1 and 2 above under "Adult Entertainment" and must only be performed in areas of Carson City in which the performances occur in compliance with Subsection 3 above, under "Adult Entertainment Facility".

Agricultural Services means uses including, but not limited to, feed lots, poultry production, dairies, pasturage, veterinarian, other animal services and similar uses.

Agricultural Uses means uses of the land for Christmas tree farms, truck farming, field crops, orchard crops, earthworm and grub raising, bees and animals in accord with Carson City Municipal Code Section 7.13 (Licensing and Regulations). Does not include a winery.

Air Rights means the right to use space above ground level.

Alley means a public thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Allotment means the document allowing an eligible party to obtain a building permit under the provisions of Chapter 15.01 of the Carson City Municipal Code prior to the effective date of this Chapter. In this Chapter, allotments may also be called "old allotments."

Alteration means any exterior change, addition or modification in construction or occupancy.

Ambulatory means any person, including one who uses a cane, walker, wheelchair or other similar device, who is physically and mentally capable, under emergency conditions, of finding a way to safety without assistance. If questioned, a final decision regarding whether a person is ambulatory shall be made by the resident's physician.

Amenity means a natural or created feature that enhances the aesthetic quality, visual appeal, or attractiveness of a particular property, place or area.

Amusement Arcade means a place where three or more coin operated machines, devices, contrivances or games are provided for public amusement.

Amusement Device means any device which upon insertion of a coin, slug, token, plate, or disc or the payment of a consideration may be used by the public as a game, entertainment, amusement, test of skill and shall include pool tables, pinball machines, electronic games, fixed kiddie rides, mechanical bulls but shall not include radios or televisions.

Animal Boarding Facility means a structure, land or combination thereof used, designed or arranged for the boarding, breeding, and care of dogs, cats, pets, fowl, horses or other domestic animals, but exclusive of animals used for agriculture purposes.