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A regularly scheduled meeting of the Carson City Planning Commission was held on Wednesday, June 25, 2003, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 3:30 p.m.

PRESENT: Vice Chairperson John Peery, and Commissioners Ron Allen, Allan Christianson, Mark

Kimbrough, Roger Sedway, and Roy Semmens

STAFF PRESENT: Community Development Director Walter Sullivan, Senior Planner Lee Plemel, Senior

Engineer Rob Fellows, Deputy District Attorney Mary Margaret Madden, Recording Secretary Katherine McLaughlin, Associate Planner Jennifer Pruitt, and Assistant Planner

Kathe Greene

NOTE: Unless otherwise indicated, each item was introduced by the Chairperson. Staff then presented or clarified the staff report/supporting documentation as well as any computerized slides that may have been shown. Any other individuals who spoke are listed immediately following the item heading. A tape recording of these proceedings is on file in the Clerk-Recorder's office. This tape is available for review and inspection during normal business hours.

A. ROLL CALL, DETERMINATION OF A QUORUM, AND PLEDGE OF ALLEGIANCE -

Vice Chairperson Peery convened the meeting at 3:30 p.m. Roll call was taken. A quorum of the Commission was present although Chairperson Wipfli was absent. Commissioner Christianson led the Pledge of Allegiance.

- B. COMMISSION ACTION APPROVAL OF MINUTES FOR MAY 28, 2003 (1-0035) Commissioner Semmens moved to approve. Commissioner Sedway seconded the motion. Motion carried 6-0.
- C. PUBLIC COMMENTS (1-0029) None.
- **D. AGENDA MODIFICATIONS -** None.
- **E. DISCLOSURES** (1-0041) None.
- F. CONSENT AGENDA U-02/03-16 ACTION REGARDING THE REVIEW OF A PREVI-VIOUSLYAPPROVED SPECIAL USE PERMIT FROM DOREEN MACK (1-0045) Senior Planner Lee Plemel's introduction included the suggestion that the six-month review condition be removed. Public comments were solicited but none were given. Commissioner Semmens moved to approve a six-month review of U-02/03-16, a Special Use Permit for a commercial business directional sign located on the northwest corner of Curry Street and Telegraph Street with no additional conditions of approval. Commissioner Christianson seconded the motion and suggested an amendment to the motion. Commissioner Semmens amended his motion to include that no further reviews will be needed. Commissioner Christianson continued his second. Motion carried 6-0.

G. PUBLIC HEARING

G-1. V-02/03-03 - ACTION ON A VARIANCE REQUEST FROM JOAN C. WRIGHT AND GREGORY J HAYES (1-0097) - Associate Planner Jennifer Pruitt - Joan Wright's fax requesting withdrawal of

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the application was noted. The Board of Supervisors had approved her abandonment request during its June 19th meeting; therefore, the variance was not needed. Public comments were solicited. None were given. Commissioner Christianson moved to approve the withdrawal request from staff on behalf of the applicants Joan Wright and Gregory J. Hayes, V-02/03-03, a request to vary the street side setback requirement on property zoned Residential Office located at 411 West Fourth Street, APN 003-128-01. Commissioner Semmens seconded the motion. Motion carried 6-0.

- G-2. U-02/03-47 ACTION ON A SPECIAL USE PERMIT APPLICATION FROM CRAIG BULL, APRIA HEALTHCARE, INC. (1-0141) Assistant Planner Kathe Green agreed to correct the staff report to indicate Apria rather than April. The applicant was not present. Public comments were solicited but none were given. Commissioner Christianson moved to approve U-02/03-47, a Special Use Permit request from Craig Bull, Apria Healthcare, Inc., to allow storage of oxygen for healthcare distribution on property zoned Limited Industrial located at 4010 Technology Way, APN 008-202-42, based on seven findings and subject to eight conditions of approval contained in the staff report. Commissioner Semmens seconded the motion. Motion carried 6-0.
- G-3. AB-02/03-08 ACTION ON A REQUEST FROM MILLARD REALTY AND CON-STRUCTION FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY (1-0194) Associate Planner Jennifer Pruitt, Dwight Millard, Community Development Director Walter Sullivan Ms. Pruitt's introduction explained that the location is within the original townsite; therefore, a fee will not be assessed for the right-of-way. Mr. Millard explained the abandonment request and location. The additional property will allow them to remove the current structure and replace it with three story, 33 unit facility for extended stay tenants. Its appearance will be similar to other buildings owned by the firm in the vicinity. It should provide a plaza effect from Red's Old 395 Grill to the Capitol. He had read the staff report and agreed with it. Public comments were solicited but none were given. Mr. Sullivan explained Redevelopment Authority Citizens Committee's review and approval of the parking plan. Commissioner Sedway moved to approve a motion to recommend that the Board of Supervisors approve application AB-02/03-8, an abandonment of the northerly eight foot wide portion of the right-of-way of East Ninth Street located between South Plaza Street and South Fall Street based on seven findings and subject to seven conditions of approval contained in the staff report. Commissioner Allen seconded the motion. Motion carried 6-0.
- G-4. AB-02/03-09 ACTION ON A REQUEST FROM PAT CLARK FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY; G-5. V-02/03-04. ACTION ON A VARIANCE REQUEST FROM PAT CLARK TO VARY REQUIRED SETBACKS; AND G-6. U-02/03-48 ACTION ON A SPECIAL USE PERMIT APPLICATION FROM PAT CLARK (1-0272) Associate Planner Jennifer Pruitt, Patrick Clark, Ormsby House Representative Larry Tiller, Senior Engineer Rob Fellows, Community Development Director Walter Sullivan Ms. Pruitt's introduction disclosed that the site is within the original townsite and that a charge will not be made for the street abandonment. The abutting neighbors support the request. Sierra Pacific's request for a continuation of the easement and staff's discussion with interested parties regarding the applications were explained. These comments dealt primarily with the variance. Mr. Clark explained the attempts to save the current structure(s) and his background as a civil engineer. His work with the neighbors had developed the proposed plan which he felt would blend with the residential neighborhood. He was willing to allow the current structure to be relocated if anyone wanted it so long as it does not unduly delay his project and can be done safely. He also volunteered to help design

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the structure's foundation for the individual(s) who want the building. He had not met with the historical society. Commissioner Christianson felt that they would be interested in salvaging the structure if possible. Mr. Clark indicated that the building had been a rental for a long time and that a lot of the original moldings are not as originally designed. He then described the landscaping plans. The large Cottonwood on APN 3-103-04 may have to be removed. Numerous small trees, the apple trees, an elm tree and a pine tree will be kept if the parking requirements can be met as it was felt that the trees were an asset to the area. Public comments solicited.

Mr. Tiller had not read the staff report. He was concerned that the abandonment of the eight-foot right-of-way would reduce the street size and parking. Mr. Fellows explained that the right-of-way is 66 feet and that the eight-foot abandonment is considered an excess that is not needed for traffic or parking. Its abandonment should not impact either the traffic flow or street parking. Mr. Tiller's concerns were a result of the renovation efforts underway at the Ormsby House. Nevada Street seems to be a race way. There are a lot of walkers in the area. These factors had raised the concerns regarding safety issues. Mr. Clark explained the intent to put in the sidewalks in his area. Mr. Tiller clarified that the Ormsby House did not have any objection to the project but was concerned about the street impacts. Mr. Sullivan clarified that the area of the abandonment will be behind the present curb. Neither the curb nor the paved area of the street will be changed. He also noted that Mr. Clark had stipulated that the single family building could be moved to another location. One of the conditions of approval includes the requirement that there will be on-site parking for the tenants.

Mr. Clark indicated that he agreed with the staff report including its 14 conditions and stipulated that the building could be moved if the person wanting it will pay for its moving costs and can do it in a timely fashion. They want to begin construction the first of August, if possible. He was willing to delay this if the new owner is close to moving the building. If nothing is being done, he would have to proceed and remove it. Mr. Sullivan suggested that the stipulation be that if no one contacts Mr. Clark by July 15 it could be demolished. Mr. Clark indicated that it is a historical building. They will be patient and work with the new owner but the pace of the project needs to move forward. Mr. Sullivan indicated that staff supported a three-week period to move the structure. This will give Mr. Clark and the prospective building owner time to move it and still allow Mr. Clark time to move forward with his project within the normal construction period. Mr. Clark reiterated his offer to help the new owner by designing the foundation plan and getting the necessary permit(s). Public comments were again solicited but none were given.

Discussion between Commissioner Kimbrough and Mr. Fellows indicated that if trucks park in the 20 foot driveways, they will extend into the sidewalk area and could impact pedestrians. Larger vehicles should park on the street. Additional comments were solicited but none were given.

Commissioner Semmens moved to approve a motion to recommend that the Board of Supervisors approve application AB-02/03-9, the northerly eight feet of West Sixth Street along the southern property lines of APN 003-103-05, 003-103-06 and 003-103-07, and an abandonment of the easterly eight feet of South Nevada Street along the easterly property lines of APNs 003-103-07, 003-103-04, 003-103-03, and 003-103-02, based on seven findings and subject to seven conditions of approval contained in the staff report. Commissioner Christianson seconded the motion. Motion carried 6-0.

Commissioner Christianson moved to approve V-02/03-4, a variance request from Pat Clark to vary the front, side

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and rear yard setbacks as shown on the plans submitted with this application, on property zoned Multi-Family Apartment located at Sixth Street and Nevada Street, APNs 003-103-04, 06, and 07, based on five findings and subject to 14 conditions of approval contained in the staff report. Commissioner Semmens seconded the motion. Motion carried 6-0.

Commissioner Christianson moved to approve U-02/03-48, a Special Use Permit request from Pat Clark to allow a two family and a single family residences on property zoned Multi-Family Apartment located at Sixth Street and Nevada Street, APNs 003-103-04, 06 and 07, based on seven findings and subject to 14 conditions of approval contained in the staff report. Commissioner Allen seconded the motion. Following a request for an amendment to the motion, Commissioner Christianson amended his motion to include the stipulation that the house with the approval of the owner be allowed to be moved or negotiations started by July 15. Commissioner Allen continued his second. Motion carried 6-0.

G-7. U-79-25 - ACTION ON THE REVIEW AND MODIFICATION OF A PREVIOUSLY

APPROVED SPECIAL USE PERMIT FOR T. E. BERTAGNOLLI (1-0702) - Senior Planner Lee Plemel - Discussion indicated that the grass has finally commenced growing. It is not as perfect as it could be but it has reduced the erosion factors. The ponds and dikes are working as envisioned. The conditions in the packet are as originally written. Annual reviews were required under those conditions. Commissioners Kimbrough and Christianson explained the history behind the need to ford the river and the dust problems associated with the roadway use. Neither Mr. Bertagnolli nor his representative were present. Public comments were solicited but none were given. Commissioner Christianson moved to approve the review of U-79-25, a previously approved Special Use Permit application to allow an extraction operation and concrete and asphalt batch plant on property zoned Conservation Reserve located on the east side of Deer Run Road at Brunswick Canyon, APNs 008-531-44 and 45, based on compliance with the required conditions of approval and with the deletion of four previously approved stipulations that have been completed. Commissioner Semmens seconded the motion. Motion carried 6-0. Discussion between the Commission and staff indicated the next review will be in two years.

G-8. V-02/03-5 - ACTION ON A VARIANCE REQUEST FROM NORTECH CONSUL-

TANTS (1-0803) - Community Development Director Walter Sullivan, Applicant's Attorney Ryan Earl, Building Official Phil Herrington, Senior Engineer Rob Fellows, Assistant Planner Kathe Green, Deputy District Attorney Mary Margaret Madden, Nortech Engineer Arthur O'Connor, Lake Glen Manor Homeowners Association Representative and Property Manager Mike Veatch, Jerry Mowbray, Evelyn Matthews, John Wittrig, Owner and Developer Robert Quinn - Mr. Sullivan's introduction included a definition of the findings needed to determine a qualifying hardship to grant a variance and photographs of the site. Vice Chairperson Peery explained his request that staff include adequate photographs illustrating the building and site. Discussion explained that a building to the left of the structure is in Lake Glen Manor and is approximately five to seven feet from the fence. It was built in 1971 which was before the 20-foot setback requirement was implemented. The photograph of the rear of the building was discussed to explain the amount of the structure which had encroached into the setback requirements. It was indicated that the balcony is not within the setback requirements, however, the corner of the building is.

Mr. Earlexplained that the building pad was relocated at the request of the surrounding property owners to preserve their views. The homeowners association also supported the relocation. They had not intended to move the building

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into the setbacks. The Lake Glen Manor neighbors do not have to comply with the 20 foot setbacks as the ordinance was implemented after their building(s) was constructed. Their position is that there are benefits to its location as indicated in the staff's report which he iterated. He also felt that the intrusion is not as visible as it could be. Commissioner Christianson pointed out that the intrusion places the Commission in the untenable position of making some people happy while others are upset with its decision. There should not have been any questions regarding the pad's placement. Mr. Earl indicated that the Mr. Quinn was not happy with being placed in this situation either. Clarification indicated that the homeowners association was the residents in Spring Meadows and not Lake Glen Manor. The property owner had felt that he was accommodating all interested parties. The movement of the pad had enhanced adjacent property values, protected the view sheds, and lowered the roof line of the structure. It was done in an attempt to be a good neighbor. He believed that the City was aware of the relocation. The building permit was obtained and inspections occurred. This lead Mr. Quinn to believe that he had complied with all of the Building Code requirements. When it was determined that the structure was not in compliance, Mr. Quinn immediately applied for a variance. Mr. Earl explained that Mr. Quinn would have preferred starting over rather than request the variance. The neighbors should have been told that he could not comply with their requests. Miscommunications had occurred with the City. The relocation was not beneficial to the builder/owner who had believed that his neighbors' requests were reasonable. Clarification reiterated that the neighbor(s) and the homeowners association were in Spring Meadows and not Lake Glen Manor. Discussion referenced a May 16, 2002, letter from Laura Bettingen, representing the Homeowners Association's Architectural Review Committee, and a June 13, 2003, letter from Spring Meadow Development Homeowners indicating that the relocation of the footpad had been approved by the association.

Mr. Herrington explained the field inspections conducted by his staff. The contractor and his/her surveyor must establish the corners based on the plans which have been approved by the City. The structure is to be constructed as indicated on the plans. Any deviations from those plans must be approved prior to construction. It was felt that the contractor/surveyor had made an error in the pad location. The inspector had not been aware of the movement. The City does not survey the lot to determine the placement. It is assumed that the contractor has set the corners as indicated on the plans. The plans must be submitted and stamped approved by the City before construction occurs. Every sheet in the plans is stamped. Clarification indicated that the "blue plans" were the original design. This is the plan that was recorded as part of the PUD process. Construction of a building outside the designated pad is an encroachment into the common area owned by the homeowners association. The contractor had not informed City staff that the building pad had been moved. The final survey indicated that the building was not located on the original pad. The building owner only owns the land designated as the footprint of the building as established in the PUD process. All of the surrounding area is considered common area and owned by the homeowners association. Discussion between Commissioner Kimbrough and Ms. Madden indicated that the Code requires a 20-foot setback and the potential for lawsuits to follow regardless of the building's location. Mr. Herrington indicated that the owner/builder would be responsible for relocating the structure including the costs to do so. Mr. Sullivan indicated that the owner/builder owns the entire structure. Clarification also indicated that the structure was constructed as designated on the red plans. Mr. Earl noted that these plans were approved on August 1, 2002. Mr. Sullivan agreed that the plans had been approved and explained that the pad must be the area owned by the individual as indicated in the PUD process. Staff had determined that the structure had encroached into the common area by placing the two plans on top of each other. Mr. Earl explained that Mr. Quinn then submitted the application for a variance. His arguments supporting the variance comply with the Code, i.e., the topography, shape and circumstances. He

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also felt that the equity of the structure should be considered in the findings. He did not believe that a precedence would be established by allowing it to remain in its present location. Commission comments pointed out that Mr. Quinn "had egg on his face". The quandary raised for the Commission included the reasonableness of requiring the building to be relocated. Mr. Quinn should have known better. Mr. Earl supported staff's recommended Option 1 which identified three items of support for granting the variance. He also noted that it would be costly to move the building and even more costly to remove it entirely. He acknowledged the complexity of the request due to the fact that the building has already been constructed. He pointed out that Mr. Quinn had not benefitted from the relocation. He should have built on the designated pad. He had attempted to satisfy the homeowners and the homeowners association when he moved the building. He had believed that he had complied with all of the City regulations. Benefits for the adjacent homeowners included the protection of their views, enhancement of their property values, and a lowered roofline. It had not been done with an intent to violate the City Codes or offend property owners. Mr. Quinn is now attempting to sell the units. The engineer and planner had redrawn the plans. Mr. Quinn was not involved with this decision. Commissioner Allen felt that the decision to relocate the building reduced the amount of fill required or need to cut into the hill. Justification for granting the variance had not been provided. The residents of Lake Glen Manor are concerned about the impact created by the location. They are not residents of Spring Meadow, who had approved the relocation. Mr. Earl indicated that relocation of the building is more expensive than it would have been to reduce the hill.

Mr. O'Connor explained that he is a registered engineer and surveyor. He had discovered the change in the location while doing the topographical survey at the end of April or the first part of May which was required to obtain an "as built certification for the hillside ordinance". He immediately notified Mr. Fellows. Mr. Fellows advised him to submit an application for a lot line adjustment. During staff's review of the lot line adjustment, Planning discovered the 20foot setback requirement for the PUD. Various PUD setbacks were described, including those with zero lot lines and the "normal" five to ten foot setbacks, to illustrate the belief that Carson City's 20 foot setback was unique. He was unaware of a change in the setbacks since Lake Glen Manor was constructed. Some of the structures in Lake Glen Manor are ten feet or less from the lot line. Reasons for feeling that construction of the structure cost more to do than the original location were limned including the need for a lift station. Mr. O'Connor had not been involved with the original plan. Jim Hadden did the original topographical map but had not done the site plan. Mr. O'Connor discovered that the corner of the building was 10.31 feet from the property line. He believed that the structure had a ten-foot setback the same as the buildings in Lake Glen Manor. Clarification indicated that the front corner of the structure is 16 feet from the property line. The plan did not include a scale which would have shown the difference in setbacks along the building. Mr. Sullivan agreed that the plans indicated that the structure was to have been 20 feet from the property line. Discussion between Mr. O'Connor and Commissioner Sedway indicated that the builder may not be aware of the setback requirements. He normally builds within an established building envelope to the scale as indicated in the plans.

Public comments were solicited. Mr. Veatch pointed out that placement of the structure closer to the property lines had required construction of a steeper bank and created additional erosion problems for the abutting residents. These residents are flooded with mud when it rains due to the lack of vegetation on the bank. His attempts to have the erosion addressed were limned. The river rock on a weed barrier and the concrete gutter drain the asphalt area into the garages in Lake Glen Manor. He also felt that none of the residents of Lake Glen Manor had been contacted regarding the decision to relocate the structure.

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Mr. Mowbray explained that he is an attorney and that he represents his mother Kathlyn Mowbray who resides in Lake Glen Manor and is negatively impacted by the erosion and flooding. The location of her unit was illustrated. He felt that Mr. Quinn should have known the rules of his trade the same as Mr. Mowbray is required to know the rules of his trade. The slope drops very rapidly. This creates an adverse impact on the adjacent properties. He was also concerned about the tree that abuts the structure. He felt that the structure will eventually cause the tree to die and then it will fall onto his mother's unit. He compared the request to allowing crime to pay and urged the Commission to deny the request. He could not believe that it was an honest mistake. He questioned the reasons Lake Glen Manor residents had not been contacted. The final map made the site appear to be legal even though it did not comply with the plans. They should have "malpractice insurance" and a claim for the cost to relocate the structure should be filed against it. He urged the Commission to utilize this as a remedy. Discussion indicated that Mr. Mowbray's parents had acquired their residence in 1977. Lake Glen Manor was constructed sometime in the 1970s.

Ms. Matthews urged the Commission to spend time in her backyard. The dirt from construction of the foundation was explained to illustrate her erosion problems. She had contacted the Lake Glen Homeowners Association who had informed her that they "would take care of the matter". Her fence has been broken due to the six inches of dirt laying against it that came from the site. Debris from the trees that were removed was pushed onto the next lot and left. They have failed to clean up the mess created by construction.

Additional comments were solicited. Mr. Wittrig explained his involvement with Mr. Quinn and the acquisition of the three lots. He sympathized with the adjacent residents as they had lost their park like setting with its deers and rabbits. Regardless of whom builds on the lot this loss would have occurred. Mrs. Mowbray's residence is 19.6 feet from the structure. It does "jog away from the property line". The relocation of the structure had provided additional distance between it and the adjacent property than appears. Discussion between Mr. Sullivan and Mr. Wittrig indicated that Mr. Sullivan had drafted the ordinance revision requiring PUDs to have 20 foot setbacks in the early 1980s. Lake Glen Manor had been approved in 1971. He felt that the appearance of the structures shows that there is a maximum of 30 feet between the structures and a minimum of 20 feet. He then explained the meetings with the homeowners association and Jane Fields' letter of objection. He felt that her objection was due to the loss of the setting. Movement of the building did not place the structure any closer but had disrupted the setting. After excavation commenced, both Ms. Field and another unnamed lady voiced their objections. Realtors had approached him and advised him that there were underground springs, erosion and drainage problems, homeowner association problems, and attempted to dissuade them from construction. Laura Stacy, a resident above the site, had written a letter requesting relocation of the structure to preserve her view shed and property value. Mr. Quinn attended the meetings with Ms. Stacy and the homeowners association and moved the structure. It was assumed that as Ms. Field had a better view, the same would occur with the Lake Glen Manor residents as the building was lowered. Mr. Quinn had not benefitted from the relocation. They had incurred additional costs as indicated by the lift station and the retaining walls. There are two families wanting to move into the structure. He felt that Mr. Quinn was naive about the authority of the homeowners association. He believed that they had "swapped" property which could be addressed by a lot line adjustment. Mr. Quinn was overly generous in his efforts to help out his neighbors.

Discussion between Commissioner Sedway and Mr. Sullivan referenced the May 16, 2002, letter from the Spring

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Meadows Homeowners Association which included recommendations from Mr. Hannafin. Recommendation No. 3 was to have the plan approved and recorded by the City prior to issuance of a permit. If this had happened, the need for a variance would have been addressed before construction. Mr. Wittrig indicated that he was not sure who the original engineer was but felt certain that Mr. Quinn knew. Additional public comments were solicited but none were given.

RECESS: A recess was declared at 5:47 p.m. A quorum of the Commission was present when Vice Chairperson Peery reconvened the meeting at 5:56 p.m. Chairperson Wipfli was absent as indicated.

(1-2633) Public comments were again solicited. Mr. Mowbray used the map on Page 2 of the staff report to illustrate the location of his mother's residence. He felt that staff's recommendation that a lot line adjustment be made was not viable due to the fact that there is less than 20 feet between the properties. Additional public comments were solicited but none were given. Public comments were then closed.

Mr. Sullivan reminded the Commission of the findings required to grant the variance. He also indicated for the record that Mr. Earl had been upfront with staff throughout the process and was good to work with. Commissioner Allen explained his concerns about the request. The uphill property is responsible for the runoff, where it goes, and consequences of it. Mr. Fellows explained that the runoff goes to Spring Meadows. Nortec has accounted for it and will certify it and the slope.

Vice Chairperson Peery acknowledged that the construction of the structure on an open space would impact the quality of life and that such construction would be seen as an impediment to the surrounding residents. The map and its plotting are not accurate. The argument that it was happenstance and not willfulness is lost. He was attempting to be equitable, however, was having trouble doing so. He appreciated Mr. Quinn's cooperation and acknowledged that it is a "rough hand to play".

Mr. Quinn indicated that he is the general contractor and owner. He had attempted to please everyone with the site. An unnamed realtor had indicated to him that no one would ever be able to build above her deck. Art Hannafin had approved the plan the same as the City had. The Hillside Ordinance was a big deal. Moving the house had been a mistake which appeared to be the comment the Commission needed to hear. Efforts to address all of the concerns indicated that the building should be "squared to the lot" and lowered. He was told to obtain approval from the homeowners association. He lacked experience with PUDs. His experience with the Building Department regarding the street and the water hookup were limned to illustrate his belief that it was not necessary for him to obtain prior approval from the City. The Association approved its relocation. He constructed the plans as indicated. After Mr. O'Connor surveyed the site, he discovered the problem. Mr. Quinn indicated that he had not been aware of any of the concerns expressed by Ms. Matthews. He was also unaware of any dirt problems at her residence. He had been told to contact the homeowners association and to work through it. He agreed to turn his attention to her concerns. He also indicated that the debris was removed and not at the site indicated. He had not done a "ramrod" job. The structure's footage had not been changed. The movement of the building had placed it into the association's common ground. Washoe County checks the footings and setbacks. This extra help had not occurred in Carson City. When looking at the Lake Glen Manor condos, which are 40 feet away, he felt that the structure could be moved without encroachment into the setbacks. He was not sure who the original designer was that had

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moved the footings and left the distances and angles as originally indicated but thought it could have been a Mike Peterson from Reno. The original engineer was Kelly Wilcox who is located in Reno and Fernley. The original plotting had been done by Mike Peterson and was a simple plotting. The error was his and the excavator's. Mr. Peterson had also done the map. He then explained that the runoff problems encountered by the Lake Glen residents had occurred during December construction of the slope when it had rained. His instructions and the excavator's mitigation had stopped the runoff the next morning. He was unsure whether the change in the building had made the slope steeper than originally envisioned. The slope contains riprap which keeps the slope from slipping. There is paper under the riprap. The soil engineer is Nortec who can address concerns regarding the amount of runoff and its dispersement.

Discussion between Commissioner Christianson and Mr. Sullivan explained that approval of a variance does not establish precedence for another variance unless the facts are the same. Mr. Sullivan could not recall a variance request with similar facts. Commissioner Christianson felt that sideyard and rearyard variances had been granted for properties abutting BLM property. He also felt that if the variance request had been made before construction, the Commission would have denied it. Mr. Sullivan indicated that he would not presuppose the Commission's actions. He was certain that the Commission would have weighed all of the facts before making a decision. Commissioner Christianson indicated that Mr. Quinn would have the ability to appeal the Commission's decision. Mr. Sullivan explained that if the Commission can make the required findings, the variance could be granted subject to the conditions of approval. Other options were provided if the necessary findings cannot be made. Individuals who had participated in the discussion could appeal the decision to the Board of Supervisors.

Vice Chairperson Peery explained that a variance is considered an exception to the rules. He also felt that the Commission may have denied a variance request if submitted prior to construction. The variance request should be considered on its own merits. He did not have a problem with rare variance requests which are normally based on "mess ups, convenience of building", and similar factors for the benefit of the public or others.

Discussion between Commissioner Sedway and Mr. Quinn indicated Mr. Quinn's belief that he had recorded the proper documents with the City and the Assessor's office. Mr. Quinn believed that he had followed all of the guidelines in the booklet that is distributed to the contractors when a permit is taken out. The association and Mr. Hannafin had approved the plan. They would not have approved it unless the recordation had occurred. Mr. Sullivan explained that the lot line adjustment application was submitted in May 2003. This is when staff discovered the setback difference. The lot line adjustment cannot be made until the variance is granted. At this time the document has not been recorded. Public comments were again opened and solicited.

Mr. Wittrig explained that he had visited the site and saw the soil debris indicated on Ms. Matthews' property. There is a chainlink fence between the two properties. He felt that approximately one inch of dirt had extended three inches onto her property. Ms. Matthews had purportedly indicated that there had always been a runoff/flooding/mud problem which the homeowners association had never addressed. She allegedly "hated the place, wished to move to San Francisco, etc., etc." He had not given the matter much credence, however, if there is a problem, he volunteered to address it. Vice Chairperson Peery indicated that this is an aesthetics problem which was unfortunate. The Commission could not holdup an individual's ability to construct on his/her land for this reason. Additional public comments were solicited but none were given.

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Commissioner Sedway and Mr. Sullivan explained the PUD process which requires submittal of the plans, staff review, and approval by the Commission. This would have allowed notification to Lake Glen Manor of the project and could have mitigated concerns. The easiest way to construct on the site is within the designated footprint provided in those plans. This may have been unfortunate for the Spring Meadows residents. Commissioner Sedway did not doubt the sincerity of Mr. Quinn's intent to address those concerns. Mr. Sullivan indicated that attempts to determine the reason Lake Glen Manor had been approved with five to seven foot setbacks could not be found. The present Code requires a 20-foot setback. The footprints for the buildings are established in the PUD process. Anything beyond that footprint is considered common area and owned by the association. Construction according to the blue line would have been within the originally approved PUD design and would have been on his property.

Commissioner Christianson explained his quandary as he could see both sides. Mistakes had been made. He felt that if they had asked for the variance before construction, it would have been given. He acknowledged that they have liability insurance for errors and omissions as Mr. Mowbray had indicated. At this moment he felt that Option 1 should be given based on fairness and the change in the Code which had allowed Lake Glen Manor's setbacks to be less than currently allowed. He was certain the matter would be appealed to the Board of Supervisors. The Commission acts as a buffer between the Board and the public. His concern was who would be hurt the most by going one way or the other. Commissioner Sedway indicated that he had the same quandary as Commissioner Christianson. When an adverse impact is not apparent, he could support variances. In this case, there are people who are impacted. He found it strange that the applicant had made the change at the request of the homeowners association and others. Associations do no normally request changes after a PUD is approved. Art Hannafin, whom he knew and respected as a qualified architect, had been very specific and spelled out the conditions which must be followed to grant the revision. He had advised the applicant that he must record the change. The applicant believes that it was recorded, however, staff has indicated that it was not. Normally, he would support the variance, however, in this case he supported a denial. Commissioner Kimbrough explained his statement at the last meeting regarding not being the jury when they considered a paving issue. The Commission must look at the intent and evidence. Details pointed out that some of the improvements were more expensive to do. The decks do not have a better view. The residences above the structure have a better view. He could not see the gain for the contractor from making the change. He also had passion for the residents below who have the five to seven foot setbacks. This setback removes his concern about the 20-foot setback requirement. The letters of support had attempted to add details on how the process had worked. He did not see an intent which he would have to find in his law enforcement career although the details had confused him somewhat. He indicated his support for Option 1. It is a tough decision which may not end with the Commission. Commissioner Allen explained his quandary. He normally attempts to support the small guy when possible. In this case the small guy is the applicant. He had problems with the testimony including the fact that the lot line was moved but the bearings and distances were left the same which he felt was an intent to deceive someone and to indicate that nothing had been moved. He was unsure whether it was a mistake or done intentionally. The only person who knows that is the individual who drew the plans. He indicated that he had problems with both sides. He preferred Option 2. Commissioner Semmens pointed out that he is new on the Commission. He indicated his agreement with Commissioner Sedway. He felt that the contractor had disregarded the rules and blatantly constructed in the wrong spot. Vice Chairperson Peery felt that it was a question of whether there was willful disregard by the owner-contractor and associated persons to confound the City's setback requirements. It had helped him understand the process to have Mr. Quinn and his attorney represent the situation. He had looked for goodness in the process. There was an obvious element of a mistake or error in the process as

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it had not worked as it was supposed to do. He leaned toward Option 1 although it was a "fitful" lean. If Mr. Quinn had not been present, he would have supported another option. Commissioner Christianson then moved to approve V-02/03-5, a request to reduce the required exterior property lines setback from 20 feet to 10 feet from Nortech Consultants, Limited, on property zoned Single Family 6000 Planned Unit Development located at 1191 Thompson Street, APN 003-361-37, based on three findings and subject to eleven conditions of approval contained in the staff report. Commissioner Kimbrough seconded the motion. Motion carried 4-2-1 with Commissioners Semmens and Allen voting Naye and Chairperson Wipfliabsent. Mr. Sullivan described for the record the appeal process and the individuals who were eligible to file the appeal.

RECESS: A recess was declared at 6:43 p.m. A quorum of the Commission was present when Vice Chairperson Peery reconvened the meeting. Chairperson Wipfli was absent as indicated.

G-9. GROWTH MANAGEMENT COMMISSION (**2-0268**) - Vice Chairperson Peery recessed the Planning Commission and immediately convened the Growth Management Commission. (For Minutes of its meeting, please see its folder.)

PLANNING COMMISSION (2-0415) - At 7:02 p.m. Vice Chairperson Peery adjourned the Growth Management Commission and immediately reconvened the Planning Commission. A quorum of the Commission was present although Chairperson Wipfli was absent as indicated, Commissioner Allen had left the meeting, and Commissioner Sedway was out of the room.

G-10. A-02/03-12 - ACTION ON AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE DEVELOPMENT STANDARDS DIVISION 4, SIGNS (2-0415) - Community Development Director Walter Sullivan, Senior Planner Lee Plemel, Al Le Balch, Doug Hone - Both Mr. Sullivan and Mr. Plemel stressed the need for additional public and Commission comments on the revisions. Mr. Sullivan requested a continuance for this reason. (Commissioner Sedway returned at 7:04 p.m. A quorum was present as indicated.) The Sign Committee will review the comments before the final draft is submitted to the Commission for action at next month's meeting. The public was invited to contact the Department for a copy of the revisions. Public comments were then solicited.

Mr. Le Balch explained statutory requirements regarding public notices for zoning issues. He acknowledged that it is not a boundary change but a regulation change but felt that it should follow the same notification procedure. Examples were cited of the changes that he felt the public should be aware. He also felt that the visual preference survey should be included as an element in the master plan. The public's desires should be considered rather than the desires of the commercial firms and their representatives.

Commissioner Christianson pointed out that flashing signs can be a distraction to motorists and questioned the restrictions on them. Mr. Sullivan indicated that there is a limit on the size of the sign and that he would discuss the issue with Commissioner Christianson later. He also indicated that the notification requirements cited by Mr. Le Balch will be discussed with the District Attorney's office and that the table which Mr. Le Balch had referenced would be checked for accuracy. He then indicated that he will discuss Vice Chairperson Peery's concerns regarding an illuminated sign in Reno with him. Billboards were not included in the revisions. Only commercial signs had been

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considered. The section on billboards that was removed from this portion of the Code was outdated. Mr. Sullivan then requested a continuance. Commissioner Christianson moved to continue the item. Commissioner Semmens seconded the motion. Motion carried 5-0.

Mr. Sullivan then requested that all written or verbal comments be given to the Department before July 15. Copies of the revisions are available at the office. The public was urged to obtain a copy and to comment on the revisions.

Mr. Hone explained his concern with the height of the freeway and its sound wall and the visibility of his signs when the motorist is traveling at speeds of 75 miles per hour. He encouraged the Commission and staff to review the freeway plans and to visit sites with new freeways. They have huge, tall signs. Freeway sound walls may be as tall as 22 to 24 feet. He suggested that the Chamber of Commerce or the City consider construction of informational/directional signage at the off-ramps. There purportedly is a Federal program which allows such signage in Oregon and California. He also indicated that the bids for the freeway close on July 10 at 1:30 p.m. Public comments were then closed.

G-11. A-02/03-14 - ACTION TO APPROVE AN ORDINANCE AMENDING CCMC 18.04.195

(2-0850) - Senior Planner Lee Plemel reviewed the changes. Discussion indicated the need to address the building height restrictions with input from the economic development core groups. Mr. Sullivan disclosed his discussion with Mayor Masayko regarding the building heights. Additional meetings were needed with the Building and Fire Departments, the public, and commercial entities. The public was encouraged to participate in these discussions. Public comments were then solicited.

Doug Hone explained the corridor committee's discussion of the ordinance and reasons for revising the height restrictions. The easy days of creating large boxes is no longer a viable option. The process needs to take time and involve sophisticated planning and thought. Apartments of the future should be self-contained with tennis courts, swimming pools, etc. Office complexes should have their own support services. Retail and gaming sites will need to have more concentrated planning. Denver was cited as an example of how the future of Carson City could be improved. He had read the staff report and looked forward to working with staff on the revisions. His discussion with Vice Chairperson Peery indicated that Denver has a lot of vacant area that is not blighted. It looks good and functions well. The Irving Ranch development was sited as an example of how times and conditions change development. Additional public comments were solicited.

Mr. Sullivan indicated to Mr. Le Balch that the economic vitality plan was not an element of the master plan. Mr. Le Balch then expressed his alarm that the height restriction was being removed. Discussion between Mr. Le Balch and Vice Chairperson Peery explained that the commercial corridors have not been established and are a work in progress. Mr. Plemel explained that the economic development core group's reviews had primarily considered the Highway 50 and 395 corridors. Discussion explained that the location of height restrictions remains to be determined. Mr. Le Balch felt that the City had a process which should be followed for determining when and if the height restriction should be changed. The process is the special use permit. He urged the Commission to deny the suggested amendment. Mr. Sullivan urged Mr. Le Balch to work with the economic development groups. Commissioner Christiansen explained that the intent is to work with the ordinance and develop a process that will

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allow some height changes to occur without going through the special use permit process. Mr. Le Balch pointed out that the special use permit requires buffering and mitigation of issues. Clarification indicated that there is a recommendation to place a 500-foot restriction on structures around the Capitol Building. Commissioner Christianson encouraged Mr. Le Balch to work with the Redevelopment area as it impacts the entire City. Mr. Le Balch reiterated his objection to elimination of the height restriction. Additional public comments were solicited but none were given. Mr. Plemel thanked Mr. Le Balch and Mr. Hone for their comments. A decision on the height issue will be made at a future date. Mr. Plemel requested a motion on the other modifications.

(2-1210) Commissioner Kimbrough moved to recommend to the Board of Supervisors approval of A-02/03-12, a zoning ordinance amendment to modify the Nonresidential Districts Intensity and Dimensional Standards of Title 18, Section 18.04.195 and of the Development Code Division 1, Land Use and Site Design, modified to retain a 45-foot maximum height within the RC, GC, and DC zoning districts as recommended by staff based on the findings contained in the staff report and with direction to staff to bring back a proposed ordinance for additional height within the RC, GC and DC zoning districts. Commissioner Semmens seconded the motion. Motion carried 5-0.

OTHER MATTERS (2-1195) - Commission comments noted that today is Mr. Sullivan's wedding anniversary and commended him on it.

H. ADJOURNMENT (2-1238) - Commissioner Christianson moved to adjourn. Commissioner Kimbrough seconded the motion. Motion carried 5-0. Vice Chairperson Peery adjourned the meeting at 7:45 p.m.

The Minutes of the June 25, 2003, Carson City Planning Commission meeting

ARE SO APPROVED ON July 30 , 2003.
_/s/ Richard Wipfli, Chairperson