

CARSON CITY PLANNING COMMISSION

Minutes of the December 18, 2002, Meeting

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A regularly scheduled meeting of the Carson City Planning Commission was held on Wednesday, December 18, 2002, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 3:30 p.m.

PRESENT: Chairperson Richard Wipfli, Vice Chairperson John Peery, and Commissioners Allan Christianson, Mark Kimbrough, Wayne Pedlar and Roger Sedway

STAFF PRESENT: Community Development Director Walter Sullivan, Senior Planner Lee Plemel, Senior Engineer Rob Fellows, Deputy District Attorney Melanie Bruketta, Recording Secretary Katherine McLaughlin and Associate Planner Jennifer Pruitt (P.C. 12/18/02 Tape 1-0001)

NOTE: Unless otherwise indicated, each item was introduced by the Chairperson. Staff then presented or clarified the staff report/supporting documentation. 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 -

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

B. APPROVAL OF MINUTES (1-0018) - None.

C. PUBLIC COMMENTS (1-0020) - Discussion indicated that individuals had expressed a desire to speak under this heading, however, they were not present. If and when they arrive, they will be allowed to speak.

D. AGENDA MODIFICATIONS (1-0019) - None.

E. DISCLOSURES (1-0021) - None.

F. CONSENT AGENDA (1-0035)

F-1. U-01/02-40 - ACTION TO CLOSE SPECIAL USE PERMIT APPLICATION FILE FOR PARAGON ASSOCIATES, INC.

F-2. U-01/02-20 - ACTION TO REVIEW A PREVIOUSLY APPROVE SPECIAL USE PERMIT FOR LISA M. KENNISON

F-3. U-01/02-1 - ACTION TO REVIEW A PREVIOUSLY APPROVED SPECIAL USE PERMIT FOR DAVID LAWSON - Commissioner Pedlar moved that the Consent Agenda Items be approved as presented. Commissioner Christianson seconded the motion. Motion carried 6-0.

(1-0300) Commissioner Christianson explained to Mr. Basa that his item was approved and thanked him for coming.

G. PUBLIC HEARING

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G-1. U-02/03-17 -ACTION ON A SPECIAL USE PERMIT APPLICATION FROM LINDA JOYCE WILSON (1-0098) - Associate Planner Jennifer Pruitt, Linda Joyce Wilson, Senior Engineer Rob Fellows - Ms. Pruitt's introduction included an explanation of the photographs of the site. She indicated that she had not been contacted by the neighbors. They had been notified. Ms. Wilson indicated that she had read the staff report and agreed with it. She also explained that she did not intend to connect to water and sewer. The existing mobile home is connected to the sewerline. Mr. Fellows explained the "catch all phrase" requiring connection to water and sewer. It may not apply to this property if it is already up to City standards. Ms. Wilson indicated that the property already has sewer and water services. She owns the property and rents it to her son. She does not plan to create a mother-in-law's quarters. The plan is to cleanup the driveway. Public comments were solicited. A discussion ensued between an unnamed neighbor and Ms. Wilson regarding the plan. Mr. Plemel gave the unnamed neighbor a copy of the staff report. Discussion indicated that the television monitor in the room had not been turned on and established a policy to have it on when there is a meeting. This will allow the audience to see the same information that the Commission sees. Additional public comments were solicited but none were given. Commissioner Pedlar moved to approve U-02/03-17, a Special Use Permit request from Linda Joyce Wilson, owner: Wilson Family Trust, to allow a detached garage structure of 720 square feet, which exceeds 50 percent of the primary structure, on property zoned Mobile Home 6,000 located at 2526 Catherine Circle, APN 008-183-19, based on seven findings and subject to 11 conditions of approval contained in the staff report, and with the understanding that any acknowledgements to the Commission/Board by the applicant may be considered as further stipulations or conditions of approval on this application. Commissioner Peery seconded the motion. Motion carried 6-0.

G-2. U-02/03-18 -ACTION TO APPROVE A SPECIAL USE PERMIT FROM BLAINE HANSEN (1-0273) - Associate Planner Jennifer Pruitt, Blaine Hansen - Ms. Pruitt noted for the record that the applicant has had a Major Project Review and the Downtown Design Review as required by the Municipal Code. She agreed with Mr. Hansen that the site is not in the historic district. Photographs of the single family dwelling on the site have been given to the State Historic Preservation as a courtesy. The structure was constructed in the 1920s. Slides of the surrounding parcels were shown. The proposal is to have zero lot lines for the two duplexes. The reasons for needing a special use permit were described. Discussion indicated that the mature trees on the lot will be removed. They could not be kept as the duplexes will damage the root system. Mr. Hansen indicated that he had read the staff report and agreed with it. He was aware of the restriction against construction work on Sunday. It should not pose a problem. The same prohibition is on the Genoa Lakes project which he is doing. Some of the trees are in the area where the sidewalk and the handicapped ramp will be located. The sidewalk and handicapped ramp are required by the City. A majority of the trees are Elms. Chairperson Wipfli complimented him for blending his project into the neighborhood. Public comments were solicited but none were given. Commissioner Peery moved to approve U-02/03-18, a Special Use Permit request from Blaine Hansen, owner: Shelly P. Hass, to allow multi-family dwellings on property zoned Downtown Commercial located at 211 West Seventh Street, APN 003-095-01, based on seven findings and subject to 13 conditions of approval contained in the staff report and with the understanding that any acknowledgements to the Commission by the applicant may be considered as further stipulations or conditions of approval on this application. Commissioner Kimbrough seconded the motion. Motion carried 6-0.

G-3. A-02/03-11 - ACTION TO APPROVE A ZONING ORDINANCE AMENDMENT TO CCMC 18.02.035 COMMISSION/BOARD APPLICATIONS (1-0447) - Community Development Director

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Walter Sullivan, Senior Planner Lee Plemel, Senior Engineer Rob Fellows, Deputy District Attorney Melanie Bruketta - Deputy District Attorney Jason Woodbury had purportedly reviewed the revisions and not found any concerns. Staff proposed to work with the applicants to educate them on the new timeframes. Commissioner Pedlar recommended requiring the application fee to be submitted with the application and not when it is deemed complete. He could not support working on an application until after the fee is submitted. The application is incomplete until the fee is submitted. He also suggested that Mr. Sullivan send a notification letter to the applicant indicating whether the application is complete or not. His experience with the State indicates that the State requires the fee with the application and submits a similar letter. The letter only addresses the completeness of the application and not its compliance. Mr. Plemel supported sending notification that the application is completed and explained that the fee cannot be submitted until the application is complete as it starts the clock for completion of the process. Commissioner Pedlar explained the Environmental Protection Agency (EPA) permits and Nevada Administrative Code (NAC) requirements which mandate payment of the fee at the time when the application is initially submitted. He urged staff to use their processes. Mr. Sullivan suggested that the ordinance be revised and returned for reconsideration. The Statute mandating completion of the application review process within 65 days was read to explain staff's position that the application timetable will commence once the application has been reviewed and has been determined to be complete. The Commission's policy, which was approved at the last meeting, established the timeframes for staff's reviews, publication of notices, etc. Commissioner Pedlar's concern regarding when the fee should be submitted was due to the time lag that may occur after the application is determined to be complete and the time when an applicant finally submits the fee. The lag could be as much as one to two weeks. He felt that the clock should start once staff has determined that the application is complete. The State deems the application incomplete until the fee is received. The State also keeps the fees if the application is not completed. Staff should do the same as it will pay for its time processing the application. A checklist follows the applications. Examples were provided to illustrate this process. Mr. Sullivan suggested that a deadline be established for completing the application. If the applicant fails to follow through, a refund will be requested. Ms. Bruketta opined that the suggested revision was a major change in the ordinance and recommended that staff bring it back at the next meeting. Chairperson Wipfli and Commissioner Sedway felt that staff should determine when the fee should be paid. Commissioner Peery supported receiving the fee when the application is submitted. This is the normal application process. Commissioner Kimbrough felt that as a refund can be given, the applicant will not lose his/her funds. Commissioners Kimbrough and Pedlar felt that if the neighbors complain or oppose the application, the applicant will lose his fees. If the application is incomplete and the applicant fails to provide the additional information, the fee will be refunded. Neighbors' complaints/oppositions are a "business" risk. Funds should not be returned when it occurs. Mr. Sullivan concurred. Commissioner Christianson also felt that staff should make the decision as when the payment should be made and do whatever is easier for it.

RECESS: A recess was declared at 4:19 p.m. A quorum of the Commission was present when Chairperson Wipfli reconvened the meeting at 4:24 p.m. Commissioner Allen was absent as had been indicated.

Mr. Sullivan explained that staff supported the recommendation to send the applicant a notice indicating whether the application is complete or not. Staff also supported tendering the fee at the time the application is deemed complete as it eliminates problems encountered when refunds are required. Payment of the fees will not be used to establish the time for monitoring the process. Discussion indicated that staff's suggested motion should be amended to include the recommended notification process regarding the complete-ness/incompleteness of the application. Public

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comments were solicited but none were given. Commissioner Kimbrough moved to recommend to the Board of Supervisors approval of A-02/03-11, a Zoning Ordinance Amendment to modify the Carson City Municipal Code Title 18, Zoning, Section 18.02.035, Commission/Board Applications, to provide for revised application submittal procedures and deadlines for Planning Commission and Board of Supervisors applications as recommended by staff, based on the findings included within the staff report and added Commissioner Pedlar's request that when the application is complete, they will be notified. Following discussion with Mr. Sullivan, Commissioner Kimbrough amended his motion to include that staff will notify the applicant in writing if the application is or is not complete. Commissioner Christianson seconded the motion. Motion carried 6-0. Commissioner Sedway complimented staff on its efforts to developed a reasonable process. Mr. Sullivan explained that the last page of the staff report is a 2003 calendar illustrating the timeframes including the variations for May and December.

G-4. A-02/03-3 - ACTION TO APPROVE A REQUEST FOR A ZONING ORDINANCE

AMENDMENT FROM JAMES BAWDEN (1-0893) - Senior Planner Lee Plemel, Senior Engineer Rob Fellows, James Bawden and Al Bernard's Attorney Scott Heaton, John Tanzi, Mark Kruger - Mr. Plemel's introduction included an explanation of the Board's direction on the ordinance amendment. Outside sales are not to be allowed except as approved by the Commission and must be for a public works project. Examples of such projects were limned. Discussion clarified the grammar in Section 3 regarding the prohibition against outside sales.

The letters and comments received by staff were included in the packet. John Tanzi was present and could explain his letter. Mr. Plemel then explained that the intent is to not allow a retail sales outlet or a permanent business which will remove the materials for sale. The proposed language allows the sale under specific circumstances. The ordinance conditions the granting of a special use permit by requiring a public hearing and debate on the merits and needs of the application. Clarification indicated that the term "outside sales" should be "offsite sales" as outside sales means to occur outside of a building. Mr. Sullivan agreed that Section 3 needed to be revised. Discussion also indicated that this change would not require renoticing the application. Discussion then indicated that the timeframe for a project would be discussed and decided as part of the special use permit process. The original concern with the first revision was that the process would provide unfair competition for the permanent aggregate sites. Discussion indicated that the time allowed for completion of the project would establish the temporary nature of the use and that the excess material must be a byproduct of the original project. As the merits and conditions of the special use permit can limit the truckloads and hours, each application must be considered on a case by case basis. The difference between the proposed ordinance and the previous ordinance revisions were limned.

Mr. Heaton noted Mr. Bernard's original opposition to the ordinance amendment. Mr. Bernard purportedly supported the current ordinance amendment. Reasons for the ordinance amendment were limned. The ordinance will restrict the sale and use of the material to public works projects such as for the airport and the freeway. Mr. Heaton acknowledged that the ordinance will eliminate bidders on the freeway/airport project as they will not have access to the "reduced cost" material. The current Code allows the developer to remove the material and transport it to any project under construction within a five-mile radius. It does not allow the sale of the material. Mr. Bernard had allegedly supported ordinance revisions. The special use permit process will allow notification to and comments from the public. The timeframe for the temporary use will be established by the Commission as a result of the public hearing process. He felt that the hill which the Airport wants removed will take more than six months to remove and that the freeway will not be ready for the material in six months. This will make the project become a "long-term project" even though the nature is "temporary". Trucks which will be required to haul the material from other sites

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poise a hazard to the community which would not exist if the proposed use is allowed. The amount of material which must be removed had not been estimated at this time. The drainage problem found at the Airport and the depth of the fill it needs were noted. The Airport site "backs up to the hill" which is to be removed. Mr. Sullivan pointed out the need for the discussion to remain on the Code amendment and not the specific project.

Public comments were solicited. Mr. Tanzi explained the location of his residence and questioned whether the material could be sold from the Northridge site. His letter was referenced. (A copy is in the file.) Mr. Plemel explained that the Special Use Permit application for the Northridge site had been withdrawn and the file was closed. The applicant for that permit cannot move forward with that site. He also indicated for the record that it had been indicated at the Board of Supervisors meeting that the material at the Northridge site is to be removed within 60 to 90 days. It should not be processed at that site. Any future applications for that site will start the process over. The ordinance modification will not to all of the zoning districts. Discussion between Mr. Tanzi and Mr. Sullivan indicated that the Northridge material could be hauled to the landfill. The project had obtained a grading permit which allows the use of the material within the subdivision. There was a surplus of the material. The surplus material will be removed within 60 to 90 days. They are not allowed to sell the material. It can be used on another site, taken to the landfill, or removed from the City. A letter has been sent to the developer informing him that sales will not be allowed. Mr. Tanzi indicated that the change in the ordinance had confused the original matter. He urged the Commission to leave the Code as it is presently written as the proposed revision could be a conflict of interest. Any Code revision should be written so strictly that it will allow the removal of only the one hill near the Airport. Commissioner Christianson explained that the proposal is to help the City as the material would be used by the Airport at no cost to the Airport. Sales will not be allowed. Commissioner Pedlar explained that the concept will require the material to be used for public works projects in order to be sold. A special use permit must be obtained in order to sell the material. This process requires notification to the public and consideration of the merits of the request. Mr. Tanzi suggested that the sale be restricted to the Airport. Mr. Plemel explained that the public works projects will be allowed under specific circumstances. Mr. Tanzi repeated his desire to have the sale limited to the Airport in order to avoid having a long term extraction operation. Additional public comments were solicited.

Mr. Kruger felt that the two issues had confused the public as the new language had not been given to the public. He had obtained a copy of Mr. Heaton's letter proposing the ordinance revision that had been considered by the Board of Supervisors. It included an amendment to Paragraph No. 3 and indicated that the changes to Paragraph 4 were acceptable. He questioned what those changes were. Mr. Plemel explained that it clarifies Paragraph 4 to require restoration of the site to its natural state. Mr. Kruger continued to allege that he had not been given the complete changes as the information packets were not at the entrance to the meeting. He also felt that the original ordinance contained a three-year limit on the operation. A recommendation had been made to restrict it to one year. There should be language defining "temporary" included in the ordinance. The ordinance allegedly assists the City, State, and Airport. It is important that the public know that others will be able to obtain a special use permit for this purpose. He agreed that the Airport could benefit from the concept if the material is given away. He objected to allowing the sale of the material. It should be possible to recover the cost for removing the material. NDOT will appreciate having the material. He liked the public works language, however, there are a lot of concerns with the concept. Based on those concerns, he urged the Commission to again deny the request. Additional public comments were solicited but none were given.

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Commissioner Pedlar moved to recommend to the Board of Supervisors approval of A-02/03-3, a Zoning Ordinance Amendment request from James Bawden to amend the Carson City Municipal Code Title 18, Zoning, Section 18.03.010, by adding a definition for “temporary on-site aggregate facilities/processing”, and amending Chapter 18.14 Extraction Operations to allow outside sales of processed material in conjunction with a temporary on-site aggregate facility for public works projects only based on the findings included within the staff report. Commissioner Christianson seconded the motion. Following discussion on whether to use the term outside or off-site sales, Commissioner Pedlar amended his motion to allow off-site sales. Commissioner Christianson seconded the motion. Commissioner Pedlar explained his original opposition to the ordinance and his ability to support the proposed ordinance due to the specific restrictions placed upon it and the absence of any pit operators or comments from them against the ordinance. Chairperson Wipfli and Commissioner Peery also noted the absence of pit operators who had originally opposed the ordinance. Commissioner Peery included the public benefit in his comments of support. Discussion indicated that the Airport Authority is a separate public entity of the City. Commissioner Kimbrough felt that the Board’s comments should have been included in the staff report. Discussion by Mr. Heaton indicated that the restriction requiring the material to be used within a five-mile limit of the source will remain in the Code. Mr. Kruger indicated that this is his concern. Mr. Sullivan indicated that this restriction limits the number of truck trips. Commissioner Sedway explained his support for allowing the operator to recover the cost of moving the material. The profit margin should be disallowed. This will provide an unfair competitive edge for the operator. A more philanthropic approach would be to require that the material be given away. He felt that the ordinance is opening Pandora’s box for the future and favored specific operators. Therefore, he could not support the modification. Commissioner Christianson explained that Mr. Heaton had indicated that they will not charge for the material but would charge for moving it. Commissioner Sedway felt that the present ordinance allows them to give the material away. The recipient would have to pay to relocate the material. He also felt that the Airport would be able to receive the material at no cost but that the freeway/NDOT would have to pay for moving the material.

Mr. Heaton opined that the current ordinance allows the owner to give the hill to NDOT and charge for the cost to move the material. Staff, however, disagrees with his position. For this reason he had submitted the proposed ordinance modification. He assured the Commission that the material will be cheaper than that obtained from other operators as it would be for only the cost of relocation. It will be a win-win-win for Mr. Bawden, the public works project, and the Airport.

Discussion indicated that staff had not analyzed the concept of charging for relocating the material. Staff’s position was that the material could not be sold. Commissioner Peery pointed out that by allowing the relocation costs, it would be possible to manipulate the figures and generate a profit. Commissioner Sedway’s concern was felt to be that the concept would undercut other commercial operators, however, none had responded to staff’s notice. They had originally opposed the concept. Commissioner Pedlar felt that the proposed ordinance did not contain an ambiguity. Nothing could occur until after the special use permit is obtained. The motion approving the revised ordinance was voted and carried 5-1 with Commissioner Sedway voting Naye. Mr. Sullivan explained that the ordinance amendment will be considered by the Board at its second meeting in January.

H. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (2-2565)

H-1. STAFF BRIEFING ON THE STATUS OF COMMISSION RECOMMENDATIONS TO THE BOARD OF SUPERVISORS - Discussion explained that the Board had considered the noticing for

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right-of-way abandonments and master plan amendments. These revisions will impact the Sierra Pacific franchise agreement. The Board had also considered the personal storage and storage containers ordinance on second reading. Mr. Sullivan thanked the Chamber of Commerce, shopping center operators, and the manufacturers for their input on this ordinance. The Planning Commission fee resolution and the Moses Street change of land use will be considered by the Board tomorrow. An announcement by the American Planning Association on its March 29 to April 2 seminar should be received shortly. Training funds are available for the Commissioners who wish to attend. On Sunday at 1 p.m. a presentation will be made on neotraditional neighborhoods in small cities which includes an explanation of the City's affordable housing program. Mr. Sullivan explained that he had been reassigned to other duties and thanked the Commission for the honor of being able to work with it. He wished them the best in the future. Commission comments echoed his sentiment and indicated regrets at losing him. The Commission's support was offered to assist him in his future endeavors. Commission comments also expressed the hope that other staff members would remain in place.

H-2. FUTURE COMMISSION ITEMS AND DATES- None.

I. ADJOURNMENT (2-1950) - Commissioner Peery wished all a good holiday season and moved to adjourn. Commissioner Pedlar seconded the motion. Motion carried unanimously. Chairperson Wipfli adjourned the meeting at 5:25 p.m.

The Minutes of the December 18, 2002, Carson City Planning Commission meeting

ARE SO APPROVED ON April 30, 2003.

/s/

Richard Wipfli, Chairperson