A regularly scheduled meeting of the Carson City Planning Commission was held on Wednesday, October 24, 2001, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 3:30 p.m.

PRESENT: Chairperson Allan Christianson, Vice Chairperson William

Mally, and Commissioners Gayle Farley, John Peery, Roger

Sedway, and Richard Wipfli

STAFF PRESENT: Community Development Director Walter Sullivan, Open Space

Manager Juan Guzman, Deputy District Attorney Neil

Rombardo, Senior Planner Skip Canfield, Senior Engineer John Givlin, Parks

Planner Verne Krahn, Associate Planner Jennifer Pruitt, and Recording Secretary Katherine McLaughlin (P.C. 10/24/01 Tape 1-00001)

NOTE: Unless otherwise indicated, each item was introduced by the Chairperson. Staff then presented/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 Christianson convened the meeting at 3:35 p.m. Roll call was taken. A quorum was present although Commissioner Mally had not yet arrived and Commissioner Pedlar was absent. Chairperson Christianson lead the Pledge of Allegiance.
- **B.** APPROVAL OF MINUTES JULY 25, 2001 (1-0024) Commissioner Wipfli moved to approve as read. Commissioner Peery seconded the motion. Motion carried 5-0.
- C. PUBLIC COMMENTS (1-0028) None.
- **D. AGENDA MODIFICATIONS (1-0035)** Community Development Director Walter Sullivan explained the applicant's request that Item F-7, a Special Use Permit application from Alan Marriage, be continued to a undetermined future meeting. (Commissioner Mally arrived during his explanation--3:39 p.m. A quorum was present as previously noted.)
- **E. DISCLOSURES** (1-0048) Commissioner Farley disclosed a discussion with Colette Burau regarding Item F-5.

F. PUBLIC HEARINGS

- F-1. DISCUSSION REGARDING A PRESENTATION TO THE PLANNING COMMISSION FOR THEIR PARTICIPATION IN THE NEVADA CHAPTER OF THE AMERICAN PLANNING ASSOCIATION'S DEBOERS AWARD FOR OUTSTANDING CULTURAL/ENVIRONMENTAL PLAN CONDUCTED AS PART OF THE QUALITY OF LIFE INITIATIVE FOR CARSON CITY (1-0058) Open Space Manager Juan Guzman described the award, the Open Space program and the Commission's role. The program now owns 95 acres. He thanked the Commission and the numerous staff members for their support of the program. He presented Certificates of Commendation to the Commissioners and gave a replica of the plaque to Community Development Director Walter Sullivan. Chairperson Christianson commended Mr. Guzman on his promotion to Open Space Manager. No formal action was required or taken.
- F-2. MPA-01/02-2 DISCUSSION AND ACTION ON A MASTER PLAN AMENDMENT REQUEST AND CONSIDERATION OF A MASTER PLAN AMENDMENT BY RESOLUTION FROM CARSON CITY PARKS AND RECREATION DIRECTOR STEVE KASTENS (1-0163) Community

Development Director Walter Sullivan, Open Space Manager Juan Guzman - Mr. Guzman explained the Park and Recreation Department and Carson River Advisory Committee's support of the amendment. Additional public comments were solicited but none given. Commissioner Mally moved to adopt the revised Chapter 3 - Wildlife and Wildlife Habitat Section to the Carson River Master Plan Element and to approve Resolution 2001-PC-6 based on the findings contained within the staff report and recommend to the Board of Supervisors approval of the revised Chapter 3 - Wildlife and Wildlife Habitat Section of the Carson City Carson River Master Plan Element. Commissioner Peery seconded the motion. Motion carried 6-0. Mr. Sullivan asked the Commissioners to put the section with their copies of the Carson River Master Plan.

F-3. L-01/02-1 - DISCUSSION AND ACTION ON A REQUEST FROM SCHULZ INVESTMENTS FOR APPROVAL OF A TENTATIVE LAND DIVISION MAP (1-0219) - Associate Planner Jennifer Pruitt, Parks and Recreation Director Steve Kastens - The applicant had submitted a letter to the Commission as he could not attend the meeting. Discussion between the Commission and Ms. Pruitt indicated that the Forest Service owns the surrounding property. The property is to be transferred to the Forest Service. The Forest Service's plans for the site were unknown. The use will remain the same. The applicant plans to use the remaining portion for grazing as he has in the past. Ms. Pruitt did not believe that the parcels were landlocked. The access issues will be addressed when the property is to be developed.

Public comments were solicited. Mr. Kastens noted his and Mr. Guzman's memo of support for the request. It is their understanding that the remaining 80 acres will stay with the Schulz family under its current use, which is grazing. The property is in the Snow Valley Peak area. If the property is owned by the Forest Service, it may never be developed. This matches the Citywide open space program. The Open Space Advisory Committee also recommended approval. He agreed that Open Space may pursue acquiring the remaining 80 acres or the Forest Service may desire to acquire it. He agreed to monitor the future uses of this site. Additional public comments were solicited but none given.

Commissioner Wipfli moved to approve L-01/02-1, a tentative land division map for the division of land into large parcels for Schulz Investments based on one finding and subject to eight conditions of approval contained in the staff report and with the understanding that any acknowledgements to the Commission or Board by the applicant may be considered as further stipulations or conditions of approval on this application. Commissioner Sedway seconded the motion. Motion carried 6-0. Mr. Sullivan explained that the map will be submitted to the Board for final approval.

F-4. M-01/02-2 - DISCUSSION AND ACTION ON A REQUEST FROM JULIO SANDOVAL TO AMEND THE SILVER OAK PLANNED UNIT DEVELOPMENT "DEVELOPMENT AGREEMENT 1994-1" (1-0338) - Associate Planner Jennifer Pruitt, Community Development Director Walter Sullivan, Deputy District Attorney Neil Rombardo, Parks and Recreation Director Steve Kastens, Applicant's Representative Julio Sandoval, Boys and Girls Club Board Member Roger Williams - Discussion between the staff and Commission explained that the parcel is owned by Silver Oak. Its development agreement had called for dedication of the parcel for a school and a park site. Negotiations between Silver Oak, the School District, the Parks Department, and the Boys and Girls Club regarding the three acres had suggested they be sold and the funds used for development of the Lompa site. This requires an amendment to the development agreement. There will still be ten acres at the site for City and School District uses.

Mr. Rombardo explained that there had been an agreement to give the Club three acres, however, it had been left out of the development agreement. The neighborhood does not want the Club located in that area. An agreement was then reached to amend the development agreement as requested and allow the Club to sell the property. The remaining ten acres will be used as originally proposed--for a park and a school site. Commissioner Mally explained his concern that the City was giving away property and should not continue this practice. Mr. Kastens explained the agreement for the Club to use the funds to construct the infrastructure for the Boys and Girls Club at the Lompa Drive site. The City proposes to build a community gymnasium on that site. He felt that the proposal was a win-win for the community and the Club. There will be a three acre park site in Silver Oak. The School

District has determined that the remaining seven acres is adequate for a school site. The proposal calls for a joint use of the park three acre site which is similar to several other elementary school and park sites in the community. The three acres that are to be split for the Club are located adjacent to College Parkway. Reasons for the selection of this area were provided. At this time the School District does not have any plans for the use of its site. The zoning will be compatible with the park and school sites and should not be commercialized.

Mr. Sandoval indicated Silver Oak had wanted to dedicate the property for over three years. The original concept was to have a community gym on the site with a school and a park. Neighborhood opposition to the gym was encountered. Silver Oak then suggested that the Club sell the property and use the funds for its other site. Zoning will control the development that occurs on the parcel. It will also have to meet the Silver Oak design guidelines, architecture review, etc. The school site will not be dedicated until the School District requests the site. Silver Oak must maintain the property until dedication occurs. Within a year it may be the only undeveloped site south of College Parkway. They are working on the park site now and will pursue transfer to the School District. He felt that the site could be considered a "blemish" in the subdivision if it remains in its current state.

Public comments were solicited. Mr. Williams explained the growth which had occurred in the use of the Club's facilities, the agreement to construct a community gym, the neighborhood's objection to such a facility, the decision to sell the property and use the funds to make improvements to the Lompa site. The School District had supported the proposal. He also indicated that the Club is beginning to work on its capital campaign and will request the zoning change in the near future.

Commissioner Farley supported Mr. Williams' comments regarding the increased attendance at the Club. She felt that the new facility is needed and will be good for the community. She also supported the application. Additional public comments were solicited but none given.

Commissioner Mally moved to approve M-01/02-2, a request to amend Paragraph 2.4 of Ordinance 1994-1, Bill 167, a Development Agreement between Carson City and Silver Oak Development Company to stipulate three acres to be given to the Boys and Girls Club of Western Nevada and separation of the ten acre school site into a three acre park site and a seven acre school site as enumerated in the attached exhibit, with the understanding that any acknowledgements to the Commission or Board by the applicant may be considered as further stipulations or conditions of approval on this request. Commissioner Farley seconded the motion. Commissioner Sedway indicated that he supported the motion. Discussion between Commissioner Sedway and Ms. Pruitt indicated that that map did not show where the parcel split is located. Commissioner Mally then amended his motion to read that it is a ten acre school-park site. Commissioner Farley concurred. Mr. Rombardo explained that the development agreement called for a seven acre school site and a three acre park site. The motion could stand as stated. Commissioner Mally withdrew his amendment. Commissioner Farley again concurred. Motion carried 6-0.

F-5. V-01/02-2 - DISCUSSION AND ACTION ON A VARIANCE REQUEST FROM RICHARD L. REITNAUER (1-0708) - Associate Planner Jennifer Pruitt, Rich Reitnauer, Community Development Director Walter Sullivan, Colette Burau, Paul Phillips, Senior Planner John Givlin, Jerry Walker, Rick Jordan, Dixie Busch, Deputy District Attorney Neil Rombardo - Ms. Pruitt indicated that she could not answer the question regarding whether the site contains a buildable pad as she is not an engineer. Jim Hadden, an engineer, had been retained and prepared the map in the Commission's packet. The type of development proposed and the required studies would have to be evaluated before a determination could be made that the lot is not buildable. A project has not been submitted to staff for review. The map indicates there is a buildable pad, however, it requires the variance. Commissioner Mally felt that the applicant had been sold a "pig in a poke". Discussion indicated the pad is located within the setback along the west property line adjacent to the Schulz property. The property owner(s) for the Schulz parcel had not contacted Ms. Pruitt about the application. Ms. Pruitt felt he/they were aware of the request.

Mr. Reitnauer described his background and read from an news article a description of the Clear Creek area which alleged that the Clear Creek channel had been changed by a former developer in order to place his property in

Ormsby County, now known as Carson City. His issue is just one more issue of a similar nature. In 1995 his 20 foot setback was changed to 50 feet. This requirement with the building restrictions and the parcel's topography made it impossible to build on the parcel without removing several trees and impacting the aesthetics by the road which would have to be cut into the hillside. He did not believe that the proposed building pad location would impact the adjacent neighbors. He acknowledged that he had been aware of the challenges development on the parcel would face. The property is in escrow and the variance is required for completion of the escrow. The two building pad locations were limned. Mr. Reitnauer had not discussed the request with the buyer.

Mr. Sullivan explained the 1995 zoning change from Conservation Reserve to Single Family Five Acre which changed the setbacks.

Mr. Reitnauer indicated that the property had been acquired for a long-term investment/retirement area by him and his wife, however, they had divorced three years ago.

Discussion between Mr. Sullivan and the Commission indicated that the original setback only carries over when a structure has been constructed prior to the setback change. Reasons for the zone change were limned.

Mr. Reitnauer pointed out that the only parcel which would be impacted by the variance would be that owned by Mr. Schulz. He also alleged that there are other parcels with "barns" close to the property lines which may have been constructed before the setback requirement was changed. The Schulz parcel may contain more than 120 acres. As a very minimum, it is at least 40 acres. He had not approached Mr. Schulz about obtaining an additional 40 feet as a mitigation measure. He acknowledged that this is a possible alternative. Commissioner Wipfli supported Commissioner Mally's suggestion about acquiring additional footage from the Schulz. He also pointed out some of the challenges facing anyone who wishes to develop the parcel due to the topography. Mr. Reitnauer indicated that the two pads he had suggested were relatively clear of trees and that the one near the top was almost flat. The building pad is restricted to the west side due to the slope. He had only become "cursorily" aware of the petition. He alleged that the Commission approved a similar setback variance two meetings ago. The petitioners were felt to be "envious" about losing the current open space along the creek. This had not been guaranteed to them when they acquired their property. He had not discussed the variance with any of his neighbors although two had visited his office and indicated a desire to acquire the property. The property had allegedly been listed since 1999. The proposed pad is the only location that a pad could be cut for the structure. The topography would not lend itself to having a house constructed on stilts. A multi-level terraced structure would be required due to the topography. He had acquired the property in August 1995. The 20 foot setback was changed in November 1995.

Ms. Burau indicated that she had represented Mr. Reitnauer as both the buyer in 1995 and now as the seller. The property owner to the east of the subject parcel had placed deed restrictions on the parcel requiring construction of the residence along the west side of the parcel. This individual had subdivided and sold the parcel to Mr. Reitnauer. The setback and drainage problems with the parcel make it impossible to build a home on the parcel. There had been two nice building sites on the property when purchased in 1995. She also alleged that the property owner to the north of the parcel intends to draft CC&Rs which will make the lot unbuildable. She had informed him that this is illegal. He opposed the building pads as the residence will block his view. She was uncertain that this is true due to the height and location of his structure above the Reitnauer's parcel.

Mr. Phillips explained that he had owned his parcel before Mr. Reitnauer had acquired his property. His parcel is to the north of Mr. Reitnauer's. Mr. Reitnauer's parcel was a "pig in a poke" when he had acquired it. He explained access problems he had encountered when he had constructed his home. He was certain that Mr. Reitnauer would encounter the same problems due to the Forest Service road requirements, which are more restrictive than the City's road requirements. Mr. Reitnauer's property is in a steep canyon with lots of boulders and trees. Access should have been provided when the property was acquired. He suggested that the variance request be tabled until the access question is resolved. He also suggested that the setback revert back to that established in 1995 of 20 feet rather than the requested ten feet. The Forest Service purportedly required a 30 foot roadway with not more than a ten percent grade.

Mr. Givlin indicated that the Carson City Fire Department had jurisdiction under the City's wildland interface agreement. The hillside requirements are also involved with any development. A typical roadway would require a minimal width and turnouts for vehicles to pass. The driveway could be as narrow as 12 feet for one home. He acknowledged that grading a driveway in the area would be problematic since the area is under the Hillside Ordinance for permitting and grading on 33 percent slopes.

Mr. Sullivan indicated the Nevada Division of Forestry would require a "timberline conversion certificate". It addresses access to sites, fire prevention, etc. Forestry will also approve the development plans prior to construction. The variance request is for relief from the 50 foot setbacks due to the hardships created by the property. If the Commission agrees that the property has the hardships, the variance should be approved.

Mr. Walker indicated he owned the property to the north of the subject parcel. He felt that the dates were in error and that Mr. Reitnauer had acquired the property after the setbacks had been changed. He did not believe that the Reitnauers had ever planned to build on the property. They had wanted to use the property as a "picnic site". His main concern is his house and fire prevention. He wanted things to be done by today's Code. The property owner to the east of the parcel had also signed the petition. Planning should not have allowed the property to be subdivided. The CC&Rs do not allow subdivisions to be made. It had not been approved by the homeowners association. The slope is over 38 percent which is economically unbuildable and Planning should have stopped it at that time. He felt that escrow on the property had closed in 1996.

Ms. Burau reviewed her dates to indicate that escrow had closed in July 1995. The zone change had occurred in November 1995.

Mr. Walker reiterated his belief that the Reitnauers had not purchased the parcel until 1996. Mr. Reitnauer had later changed the deed to hold the title in his name. Chairperson Christianson indicated that this issue is not germane to the application. Mr. Walker also alleged that Robert and Alice Schultz own the 40 acres west of Mr. Reitnauer in addition to three other parcels. They are not Bill Schulz or Schulz Investment according to the records he had obtained from the Assessor's office. Discussion indicated that the property had been acquired by Mr. Reitnauer at a foreclosure sale.

Mr. Jordan indicated that he is purchasing the property. He acknowledged that there were challenges with the property and felt that the lot is buildable with the ten foot setback. It may be possible with the original setback of 20 feet although it will push the house closer to the neighbors and further impact their aesthetics. The driveway poises a serious problem. The CC&Rs recommend that driveways be shared as the neighbors to the east currently do. He had originally hoped that they would be cooperative with him, however, now felt certain it would not happen. This will cost him more to develop a road. He had not discussed his plans with the neighbors as he was waiting for escrow to close. He was willing to meet with them.

Commissioner Farley indicated her struggle with the request due to her advocacy of private property rights. She was also worried about the access.

Mr. Jordan indicated that there is a driveway on the east side of the lot. If the neighbors are willing to share the driveway, it will be a simple thing to do. Otherwise, the driveway will be very costly and create an aesthetic impact. The 50 foot setback still posed a problem. He would have to discuss the 20 foot setback with his engineer. He would also have to remove a "couple of trees" which he preferred not to do, if at all possible. He explained his background with the area and desire to acquire the property.

Mr. Sullivan explained that a check of the Assessor's records indicated that Mr. Reitnauer purchased the property from his former wife in July 1998. He and his former wife had acquired the property in August 1995. The 20 foot setback had been in existence at that time.

Mr. Jordan indicated that his objection to construction on stilts was due to the aesthetic impact and the characteristics of the surrounding homes which were felt to be on pads. Commissioner Sedway pointed out that

this is an option which could be used in lieu of the variance request. Mr. Jordan felt that the surrounding neighbors would oppose such a house. He proposed to construct the house on multi-levels or dig into the hillside which would place the majority of the house underground.

Commissioner Wipfli expressed his support for returning the setback to the original 20 feet. He also recommended that Mr. Jordan discuss the access issues with an engineer and Forestry. He opposed going to the 20 feet until these discussions have occurred as the project may not be feasible. Mr. Jordan indicated that the site plan had not been developed as he was working on the driveway and variance application. Commissioner Wipfli also expressed his desire to have Mr. Jordan work with the neighbors if at all possible. Mr. Jordan felt that his project would work with the 20 feet although it may require removal of some trees which he preferred not to have to do.

Ms. Pruitt indicated that she had mentioned the variance application to the Schulz involved with Item F-4. She was unsure whether he owned the adjacent parcel. A residence has not been constructed on the Schulz parcel. Mr. Jordan indicated that there is a road on the Schulz' side of his property. He was not aware of a protest by the Schulz. Chairperson Christianson suggested that he contact this Schulz and negotiate an access. Mr. Jordan acknowledged that this may be an reasonable approach and would do so if the Commission granted 20 feet instead of the requested ten feet. Chairperson Christianson supported the suggested 20 foot setback. Additional public comments were solicited.

Mr. Reitnauer indicated that he had never met Mr. Jordan or discussed the proposal prior to this time due to the buyer/seller relationship. The CC&Rs do discuss road maintenance agreements. His parcel is excluded from the CC&R road maintenance agreement as it is split to the side from the other parcels and would require an access across the Marshall property which is to the east of his parcel. Mr. Marshall purportedly did not want a road access across his parcel. A roadway had been installed on the Schulz parcel within the last two years. It winds around and provides an almost straight shot at the gate to the first pad site. This is his first proposed access route. The second and third access routes would start at Clear Creek Road and create two large scars to the pads. Mr. Hadden's engineering study indicated that access could be obtained from the Schulz road. Chairperson Christianson pointed out that the City does not enforce CC&Rs.

Mr. Walker indicated that the roadway on the Schulz property did not have access to Clear Creek Road. The road purportedly came from Snyder's property and cuts across Schulz' property before returning to Snyder's property. He also explained how he knew that the road does not access Clear Creek Road. He reiterated that the Schulz property is owned by Robert and Alice Schulz and not Schulz Investment. He felt that these points need to be clarified.

Ms. Busch encouraged the applicant/buyer and Commission to require more than the engineering report. The neighbors in the area had generally cooperated with one another. She encouraged Mr. Jordan/Mr. Reitnauer to meet with the neighbors. She felt that it would require more than two switchbacks to provide the necessary grade for the access road. Fire concerns were stressed including those created by campers are using the creek bed or the Indian land. If the Fire Department or Forestry cannot access the area, more than one home will be lost. The Schulz parcel is on an earthquake fault. This could poise a problem for a stilt-built home. She recommended that the soil be tested to insure that it will hold the structure. She did not believe that there are any other homes on stilts in the area. She recommended using a pad. The underground water table is only six feet below ground at her site. Additional engineering should be analyzed before a decision is made. Public comments were then closed.

Discussion indicated that the granting of a variance must be based upon hardships with the land. Commissioner Sedway felt that having specific plans for the site would help convince the Commission of the hardships. He did not have a problem returning the setback to the original 20 feet. He also indicated that the other issues related to the access, fire requirements, road requirements, etc., should have been worked out before bringing the application forward. Mr. Jordan may encounter conditions which may make him rethink his desire to acquire the property.

Commissioner Peery also expressed support for returning the setback to 20 feet. He was also concerned about the access as expressed by the other Commissioners.

Discussion between Commissioner Mally and Mr. Rombardo indicated that Mr. Reitnauer would have to agree to a continuance if the site plan and access issues are to be considered. The request for a continuance for these items should include clear justification for the need for this information. Commissioner Farley pointed out that it would be expensive to obtain this information. Mr. Rombardo also felt that access is an issue which the Commission could include in its scope. Chairperson Christianson indicated that the access and slope will eventually determine the actual setback. Mr. Sullivan explained that the application had been filed on 9/20. The applicant would have to agree to the continuance as it would place consideration outside the 65 day deadline established by the Statutes.

Mr. Reitnauer described his reasons for wanting to move forward and close the escrow as quickly as possible. It may also be that if he develops a plan, Mr. Jordan may not want to use that plan for the roadway. He also did not feel that Mr. Jordan would want to put up the money for the engineering unless there is some indication that the Commission will approve the variance. Chairperson Christianson pointed out that if a continuance is not requested, the variance may be denied.

Commissioner Sedway explained that he was not comfortable requesting a continuance. He supported the 20 foot setback. Mr. Jordan is taking a risk that he will be able to develop on the property. Mr. Jordan should not return at a future date requesting another variance if the 20 feet does not work as those engineering issues could have been addressed now.

Mr. Rombardo reiterated that the hardship must be created by the property and could not be based on the original 20 feet. Chairperson Christianson agreed.

Mr. Jordan indicated that the 20 foot setback would be enough according to his discussion with the engineer although it may be necessary to remove some trees.

Commissioner Peery moved to approve V-01/02-2, a variance request from Richard Reitnauer to vary 30 feet, not 40, from the required 50 foot side yard setback resulting in a 20 foot side yard setback on property zoned Single Family Five Acres located at 5100 Old Clear Creek Road, APN 007-042-11, based on five findings and subject to six 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 Mally seconded the motion. Commissioner Peery agreed to changing Condition 6 to reflect 20 feet rather than the indicated 10 feet. Commissioner Mally concurred. The findings related to the hardship had been included in the staff report. Commissioner Farley expressed a desire to make a comment to the people who live in the area and had signed the petition. Chairperson Christianson indicated this should be stated after the vote. The motion to approve a 30 foot variance was voted and carried 6-0.

Mr. Sullivan briefly indicated that appeals should be made within 15 days. The appeal criteria should be picked up at his office. Mr. Sullivan then explained the proposed Douglas development and its impact on Old Clear Creek Road including its improvement and maintenance agreement. Another meeting will be held between County staffs regarding this issue.

Commissioner Farley thanked the audience for attending and speaking. She hoped that the action which had been taken will work and encouraged the buyer and the neighbors to meet and work out their differences.

Discussion between the Commission and Mr. Sullivan explained that portions of Old Clear Creek Road is owned by the adjacent property owners. Douglas County has not dealt with this issue. The property owners could gate the roadway and effectively close it. Carson City had questioned whether Douglas County could maintain the roadway if it does not own it. Discussion noted the issues related to the roadway had not been agendized. The neighbors had been notified about the project in Douglas County. The City had been notified by them and contacted Douglas County regarding the proposal. The roadway improvements had been accepted by its Planning Commissions. Staff has been informed that it has until November 1 to modify those improvements before it will be presented to the Douglas County Commissioners.

BREAK: A recess was declared at 5:25 p.m. A quorum of the Commission was present when Chairperson Christianson reconvened the meeting at 5:30 p.m. although Commissioner Pedlar was absent as previously indicated.

F-6. U-01/02-11 - DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM MICHAEL D. AND MARGARET KATHLEEN HARRIS - Senior Planner Lee Plemel, Michael and Kathleen Harris, Shirley Whitcome, Martha Mease, Community Development Director Walter Sullivan, Will Wieprecht, Deputy District Attorney Neil Rombardo - Discussion between the Commission and Mr. Plemel explained surrounding uses. A copy of the petition against the request had been given to the applicant just prior to the discussion. The Harrises indicated that they had briefly read the report and nodded their agreement with the report. They do not have any children.

Chairperson Christianson explained his long standing opposition to businesses in residential areas when opposed by the neighbors.

The Health Department had visited the residence and had indicated that there is adequate space for eight children. Mr. Harris indicated that the house had 1,600 square feet as a room had been added on the rear of the building. This screened area had been constructed with a permit but had not been added to the Assessor's rolls. Ms. Harris explained that the parents for whom she now provides care are having more children which increased the childcare needs. She had not increased her clientele. Her niece will assist her. They were aware of the handicapped requirements which will have to be made to the house for the increase. The oldest child she has is four years old. They are not outside the house. The neighbor's complaint had been generated by her sister's children who had been living with her. She did not plan to have older children in the future as they are in different school zones. The children are there from 6:45 a.m. until 5:30 p.m. Pick up is staggered. There is adequate space in front of her house to handle the increased parking. An adjacent neighbor has agreed to allow parking, if necessary, should more than two parents arrive at the same time. This individual, however, resides in California and could not attend the meeting. Children are not allowed in the add-on room as it contains a jacuzzi. She had purportedly been advised that she could have up to 16 children in the home. She had asked for eight as her niece wishes to work in the childcare field.

Commissioner Wipfli supported Chairperson Christianson's concerns regarding the eight children in a 1,000 square foot house. Commissioner Peery also had a concern about the size of the yard.

Ms. Harris felt that the yard was adequate for the eight children. The dogs are not vicious. The Health and Fire Departments had purportedly indicated that there could be 50 children in the backyard. Chairperson Christianson pointed out that the children will not be outside all of the time. Ms. Harris clarified the size of the house as being 1,160 square feet according to the previous owner. Mr. Plemel explained that the Assessor's files show the house as being 1,154 square feet. The sun room has either not been assessed yet or is not counted as living space. As the sun room is not to be used for childcare, it discussion may not be germane.

Public comments were then solicited. Ms. Whitcome explained that she represented a majority of the older residents in the subdivision. She felt that her house was identical to the Harris residence. She had raised four daughters in her home and it had been crowded. Ms. Harris had been observed caring for more than eight children. She had purportedly been fined for this as she did not have a business license. She allegedly still has the same number of children coming to the residence. If she is allowed to continue to operate, the Commission will have rewarded her for breaking the law. Ms. Whitcome felt that the use would be detrimental to the general neighborhood. The backyard has a six foot wood fence. It will not stop the noise. She had not been able to enjoy her backyard during the summertime due to the children's noise. Toys often come over the fence which she has thrown back. She had also encountered a bad situation with some of the parents who are dropping off or picking up their children. They consistently park across her driveway blocking her access/egress. A City ordinance allegedly prohibits parking across a driveway or sidewalk. The backyard is only dirt. The children's playing creates dust which also disturbs her. She asked the Commission to deny the request.

Additional comments were solicited. Ms. Mease explained the location of her home that she had purchased in June of 1998. She had conducted her own investigation of the request including an impromptu inspection of the home and had visited with the petitioner. She felt that the opponents had not communicated with the Harrises. property is maintained. The children are not allowed in the street when under Ms. Harris' care. The "bad seed" children which had been there are no longer there. She felt that the neighborhood is beautiful with modest homes. She preferred to keep the character of the community. The conditions on the permit will address a lot of the neighborhood concerns. The Harrises have created a "pull in and pull out" zone for clientele parking which will address the parking problems cited by Ms. Whitcome. Ms. Mease had been concerned about the parents who were "shooting donuts in her driveway". The drop-off zone had addressed this problem. She felt that she could talk to the Harrises and address any problems she had encountered. The Harris' employment background was cited to illustrate the type of individuals they are. Their clientele screening program was limned. The hours of operation had also addressed some of the concerns. Mr. Plemel had advised her that there are business restrictions on firms allowed in residential areas. She also noted the handicapped improvements to the residence which will be required before the increase in the number of children is allowed. Discussion between Ms. Mease and the Commission explained that there is a 500 foot prohibition on the placement of a second childcare facility in the neighborhood. An annual review could be required. Property owners within 300 feet will be notified if the license is reviewed or The Health Department checks out problems under its purview. Community Development's compliance officer checks out problems related to the permit conditions. Ms. Mease suggested that the someone from the City act as a "go between" in the neighborhood to explain the conditions placed upon the permit. Chairperson Christianson pointed out that the neighbors could request reconsideration of the permit at any time in the future if a problem is perceived. Discussion also explained that the CC&Rs are not enforced by the City. Commission comments expressed the feeling that the CC&Rs may be over 20 years old and may have expired. The residents could take the matter to court as a private matter under the CC&Rs if the CC&Rs are still in effect. Ms. Mease hoped that the neighbors could remain friendly and work together.

Additional comments were solicited. Mr. Wieprecht explained the location of his residence and tenure there. He did not oppose the request but he is not an adjacent neighbor. He was, however, concerned about the precedence granting the permit could have and future business encroachment on the neighborhood. Business developments already surround the neighborhood on three sides. This appears to him to be an overall zoning problem. It was explained that the use is allowed with a special use permit. Childcare use is distinguished from other retail commercial uses which are prohibited from the residential district uses.

Mr. Rombardo opined that nothing the Commission does is precedent setting. All applications must be considered on their own merits. Chairperson Christianson also explained that each application must be reviewed on an item by item basis.

Mr. Harris agreed that the childcare is in operation. Ms. Harris is licensed for four children and had been for four years. They had been caught with six children which was when they learned about the licensing requirements. The CC&Rs allegedly have not been updated in 45 years. They had not been fined. There has never been parking across a driveway. It has always been possible for Ms. Whitcome to exit her driveway. Ms. Whitcome has never talked to them about any complaints/concerns. To the best of his knowledge Ms. Whitcome had not approached the parents in a civil manner.

Commissioner Wipfli explained his support of residential childcare facilities with a limit on the numbers. He had had concerns about the numbers for this application even though he felt the Harrises were extremely qualified. His concerns with the size of the house were limned. The neighbors had expressed support for having four children. He hoped that the situation improved. He could stretch the number to six but could not support eight. Use by the neighborhood could support four children. He could not support a business which imports children from other areas nor having other people who are learning the business included in the business operation. He could only support four children and not anything larger.

Commissioner Peery supported his comments and indicated his feeling that the residence was too small for the proposed number.

Mr. Harris explained that the furniture had been moved to allow the 12x12 square foot living room to be used as a play area for the children. Bunk beds had been placed in the bedroom where the children can also play. The backyard has been left open with a swing set for the children. There is a separate room for sleeping which allows the older children to stay in the play areas.

Discussion between Commissioner Mally and Mr. Rombardo indicated that the Commission could limit the number to six.

Commissioner Farley expressed her love for little children but they need a lot of space. She also felt that anyone in a backyard should be grateful for being able to hear children in a backyard playing. Commissioner Farley then moved to deny U-01/02-11, a special use permit request from Michael and Margaret Harris to allow a childcare facility in an existing residence, accessory to a primary residential use, for a maximum of eight children in a Single Family 6,000 square foot zoned district located at 1823 North Nevada Street, APN 001-103-07, 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 Commissioner Wipfli seconded the motion. The motion was voted by roll call with the following result: Sedway - No; Wipfli - Aye; Peery - Aye; Mally - No; Christianson - Aye; Farley - Aye. Motion carried 4-2-0-1 with Commissioner Pedlar absent. Mr. Sullivan briefly explained the appeal process.

F-7. U-01/02-10 - DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM ALAN MARRIAGE (1-2760) - Community Development Director Sullivan - Commissioner Wipfli moved to continue F-7. Commissioner Peery seconded the motion. Motion carried 5-1-0-1 with Commissioner Sedway voting Naye and Commissioner Pedlar absent. Commissioner Sedway indicated he had voted against the motion due to his concern about the protocol and that some of the audience may have wished to consider the item. Chairperson Christianson apologized to the audience if they had wished to hear the item, however, the applicant had requested a continuance. Discussion indicated that the applicant was present.

Discussion ensued concern protocol and whether to move items that the applicants have requested a continuance on to the beginning of the meeting. Staff opposed doing this as people are often told approximate times for items to be heard. These individuals may attend the meeting at that time rather than coming at the beginning of the session. They would not be able to be heard if the requests for continuances are taken out of order. Mr. Sullivan also explained his desire to have the applicant request the continuance in person. Withdrawals are considered at the beginning of the meeting as there is no action to be considered.

U-01/02-1 - DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM CLAYTON THOMPSON; AND F-9. U-00/01-6 - DISCUSSION AND ACTION ON A REVIEW OF A PREVIOUSLY APPROVED SPECIAL USE PERMIT FOR EUGENIO G. BASA (1-2817) - Senior Planner Skip Canfield, Clayton Thompson, Eric Basa - Mr. Canfield presented photographs of the landscaping and complimented Mr. Basa on his landscaping and parking lot improvements. Mr. Thompson had read the staff report and agreed with the findings and the parking restrictions. His business commences after 5 p.m. except on Sunday. His clientele are mainly comprised of minors who do not drive. His volleyball program was limned. He requested that the City reconsider the parking requirement for his business. He thanked Mr. Atkins for cooperating with him on the parking. Public testimony was solicited but none given. Commissioner Mally moved to approve U-01/02-1, a special use permit request from Clayton Thompson, applicant, Eric Basa, owner, to allow off-site parking, APN 008-292-27 - Atkins Carpet, within 300 feet of the primary use, APN 008-292-28 - Vintage Class Motor Cars and Silver State Volleyball, on property zoned General Commercial located at 4251 U.S. 395 East, based on seven findings and subject to eight 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. Following a request for an amendment, Commissioner Mally corrected his motion to be for 4251 U. S. Highway 50 East. Commissioner Wipfli seconded the motion. Motion carried 6-0.

Commissioner Mally moved to approve the one year review of U-00/01-6, a previously approved special use

permit request for Eugenio G. Basa to allow an automobile body and restoration facility on property zoned General Commercial located at 4251 Highway 50 East based on the original findings and conditions of approval and with the understanding that any acknowledgements to the Commission or 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. Chairperson Christianson indicated that the special use permit would be reviewed again in one year and congratulated him on his improvements.

BREAK: A recess was declared at 6:25 p.m. A quorum of the Commission was present when Chairperson Christianson reconvened the meeting at 6:33 p.m., although Commissioner Pedlar was absent as indicated.

Mr. Basa thanked the Commission for its reconsideration and interest in his project. Originally he had questioned his reasons for wanting to do business in Carson City. He was glad to have made the commitment to the community and would share his experiences with others wishing to do business in the community, if asked. Chairperson Christianson thanked him for his comments. The Commission is here to help businesses. Mr. Basa pointed out the control the Commission has over the businesses.

F-10. A-00/01-4 - DISCUSSION AND ACTION ON REVISIONS TO THE CCMC TITLE 18, ZONING (1-3166) - Community Development Director Walter Sullivan, John Serpa's Attorney Scott Heaton, Chamber of Commerce Manufacturers Association Chairperson Del White, Chamber of Commerce Executive Director Larry Osborne, Deputy District Attorney Neil Rombardo, Senior Planner Lee Plemel - The attempt to reach a compromise on the limited industrial, general industrial, and airport industrial zoning was unsuccessful. Therefore, Mr. Sullivan recommended, with the support of all parties, that the current zoning be retained for these districts. These sections may be reconsidered in the future.

Mr. Heaton limned the area owned by Mr. Serpa. His discussions with other industrial proprietors indicated a desire to avoid a conflict over the zoning issues. A consensus could not be reached due to the numerous issues and individuals involved even though they are close on some areas. A gentleman's agreement had been reached to continue the discussions in an effort to ensure resolution of the problems which had created the need to reconsider the Code in the first place.

Mr. White supported the recommendation to retain the original Code. The intent had been to create something better for Carson City. Hopefully, the growth which is now occurring in the industrial area will continue and not create conflicts or problems for the future. He hoped it would be possible to reconsider the Code and resolve the issues in the future.

Mr. Osborne supported the recommendation and noted the three years which had been devoted to the discussions and effort. There are areas of contention as well as areas which have been resolved. There has never been an intent to have a business oppose a business, which appears to be happening. Hopefully, another attempt can and will be made in the future. Additional comments were solicited but none given.

Chairperson Christianson acknowledged the time that the Commission as well as all of the other participants had spent on the effort. He was disappointed that a resolution could not be found. He also hoped that the issues will be reconsidered in the future. The community needs to grow. This growth must be nurtured and controlled due to the lack of space left in the valley. Therefore, the effort must be made to create as harmonious an environment as possible.

Mr. Rombardo pointed out that the current Code does not coincide with the revisions which have already been made, i.e., the limited industrial uses reference sections of the Code which no longer exist. Chairperson Christians agreed that staff will have to resurrect those sections. Mr. Sullivan agreed and expressed an intent to bring the revisions back to the Commission next month.

Mr. Sullivan then thanked all of the participants for this efforts including Mr. White; Mr. Heaton; Mr. Serpa, Jr.;

Mr. Osborne; and the others who were in attendance.

Commissioner Sedway stated for the record that it was disappointing that a compromise could not be reached. The reason the discussion had occurred was due to the issues which had been encountered. These issues are still out there and need to be addressed or they will resurface before the Commission. This will force resolution of some issues, as they had not been resolved by the ad hoc committee, by the Commission. He hoped that those issues can be addressed and some changes successfully made in the future so that a hard decision is not required.

Mr. Plemel distributed copies of the revised administrative permit process to the Commission and Clerk. (A copy is in the file.) He briefly reviewed the issues which had been discussed previously and the revisions which had been made to those sections including the hearing examiner, public notification, wireless communications, and public hearing process. Discussion ensued between Mr. Plemel and Commissioner Sedway regarding the requirement that the applicant obtain approval of the adjacent property owners. Mr. Plemel agreed that this requirement had been waived and recommended that the second paragraph in Section A be deleted. He then explained that notices are given to a minimum of 30 adjacent property owners or to all property owners within 300 feet, if more than 30. Notices of decision are not sent to these individuals unless they have contacted staff prior to the meeting and requested a notice. The hearing officer will conduct his meetings much like those held by the Commission.

Mr. Rombardo explained that the process is taken from the Statutes. Under the Statutes, if an individual does not participate in the public hearing process, he/she does not have the right to appeal a decision. If the individual participates, he/she can receive a notice of decision and appeal. The only difference in the hearings are the size of the request.

Clarification explained that the property owner must sign for the permit. Only one property owner of record is required to sign the permit. Clarification reiterated that the requirement for adjacent property owners to sign supporting the application had been eliminated from the administrative permits requirement 3a. The hearings examiner can rule on the application without the neighbor's approval.

Commissioner Sedway expressed his concern that the process is too bureaucratic. The concept had been very simplistic in the beginning. He was, however, willing to give the program a try.

Chairperson Christianson felt that the effort was made to "cover all of the basis", however, it is difficult to spell out. He also supported giving it a try.

Clarification explained that the Board of Supervisors would appoint the hearings examiner. City staff is debating who should be appointed to this position. This individual will not be paid for these duties. The difference in opinion regarding whether it should be a staff member was limned.

Commissioner Wipfli explained his feeling that the process was reducing the amount of bureaucracy involved with small adjustments. If the program works, it will work well and should be tried. Public comments were solicited but none given.

Mr. Sullivan recommended the following revised motion: To continue any matters regarding the industrial zoning to next month, staff will have to come back and make the Code changes, and that the Commission approve the administrative variances and permit sections. Commissioner Mally so moved. Commissioners Wipfli and Farley seconded the motion. Mr. Rombardo summarized the motion as being to continue the industrial section and approving the administrative permitting and administrative variance hearing sections. Commissioner Mally agreed that this is the motion. The motion was voted and carried 6-0.

G. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS G-1. STATUS REPORTS ON COMMISSION RECOMMENDATIONS TO THE BOARD OF SUPERVISORS AND CORRESPONDENCE TO THE COMMISSION, AND G-2. F U T U R E

COMMISSION ITEMS AND DATES (1-0255) - The Board had approved the Title 17 revisions on second reading and the Moffett property open space. The next meeting will be held on November 28, after Thanksgiving. The purpose of the memo regarding the Ruckmans was explained as being an attempt to keep the Commission advised of the status of the project. There is construction power to the property so that the roof can be fixed. A stop work order had never been issued. No formal action was required or taken.

H. ADJOURNMENT (2-0286) - Commissioner Wipfli moved to adjourn. Commissioner Farley seconded the motion. The motion carried unanimously. Chairperson Christianson adjourned the meeting at 7 p.m.

7 p.m.	
The Minutes of the October 24, 2001, Carson City Planning Co	ommission meeting
2001.	ARE SO APPROVED ON_December 19
	/s/ Allan Christianson, Chairperson