



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: July 19, 2018

Staff Contact: Lee Plemel, Community Development Director

Agenda Title: For Possible Action: To adopt Bill No. 110, on second reading, Ordinance No. 2018-___, an ordinance approving a development agreement between Carson City and Schulz Investments, LLC, regarding the development of a subdivision known as Schulz Investments Tentative Subdivision Map (TSM-14-022), located on 32.68 acres between U.S. Highway 50 West and Old Clear Creek Road, APN 007-051-72, to extend the approval of the tentative map. (Lee Plemel, lplemel@carson.org)

Staff Summary: Tentative subdivision map approvals expire four years from the date of approval unless a Final Map is recorded within that time period or a Development Agreement is entered into extending the tentative map expiration date. The applicant is requesting a four-year extension to August 7, 2022. The proposed subdivision would create six single-family residential lots, each of five acres or greater in size.

Agenda Action: Ordinance - Second Reading

Time Requested: 5 minutes

Proposed Motion

I move to adopt Bill No. 110, on second reading, Ordinance No. 2018-___, an ordinance approving a development agreement between Carson City and Schulz Investments, LLC, regarding the development of a subdivision known as Schulz Investments Tentative Subdivision Map, to extend the approval of the tentative map to August 7, 2022.

Board's Strategic Goal

Quality of Life

Previous Action

August 7, 2014: The Board of Supervisors approved the Tentative Subdivision Map, with conditions.

July 5, 2018: The Board of Supervisors introduced the ordinance for the development agreement by a vote of 4-0 (1 absent).

Background/Issues & Analysis

The Schulz Investments Tentative Subdivision Map was approved by the Board of Supervisors, with conditions, on August 7, 2014. The applicant states that the delay in processing a final map includes unresolved access issues on Old Clear Creek Road. The applicant's request is attached.

Since the original approval in 2014, there have been no changes to the development standards or zoning for this area that would require modification to the standards and/or conditions of approval. The Fire Department and Public Works Department have reviewed the proposed time extension and have no objection to the requested extension.

Therefore, staff recommends extension of the tentative subdivision map for four years as requested by the applicant. Should the extension not be granted and new tentative subdivision map approved, staff would require the same conditions of approval. There is no known benefit to allowing the tentative subdivision map to expire. In fact, the additional time may allow issues regarding access and maintenance on Old Clear Creek Road to be resolved prior to development of the subdivision.

If you have questions regarding this item, please contact Lee Plemel at 283-7075 or lplemel@carson.org.

Attachments

1. Ordinance

Exhibit 1: Development Agreement

Exhibit A: Site map

Exhibit B: Tentative map approval minutes and conditions of approval

Applicable Statute, Code, Policy, Rule or Regulation

NRS 278.360; CCMC 17.05 (Tentative Maps); CCMC 17.06 (Final Maps)

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number:

Is it currently budgeted? Yes No

Explanation of Fiscal Impact:

Alternatives

1. Do not approve the extension and allow the tentative subdivision map approval to expire.

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

Summary: An ordinance approving a Development Agreement for Schulz Investments LLC to extend the approval of the Tentative Subdivision Map TSM-18-022.

BILL NO. 110

ORDINANCE No. 2018 - __

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND SCHULZ INVESTMENTS, LLC, REGARDING THE DEVELOPMENT OF A SUBDIVISION KNOWN AS SCHULZ INVESTMENTS TENTATIVE SUBDIVISION MAP (TSM-14-022), LOCATED ON 32.68 ACRES BETWEEN U.S. HIGHWAY 50 WEST AND OLD CLEAR CREEK ROAD, APN 007-051-72, TO EXTEND THE APPROVAL OF THE TENTATIVE MAP AND OTHER MATTERS PROPERLY RELATED THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

WHEREAS, Carson City desires to enter into a development agreement with Schulz Investments, LLC, concerning the development of land known as Assessor's Parcel Number 007-051-72, located between U.S. Highway 50 West and Old Clear Creek Road, Carson City Nevada.

WHEREAS, the Carson City Board of Supervisors finds that the contents of the development agreement conform to the Carson City Municipal Code 17.08 and Nevada Revised Statues 278.0203; and

WHEREAS, the Board finds that the provisions of the development agreement are consistent with the Carson City Master Plan and the original approval of Tentative Subdivision Map.

NOW, THEREFORE, the Board hereby approves by ordinance the attached development agreement between Carson City and Schulz Investments, LLC, for the

development of land known as Assessor's Parcel Number 007-051-72, said agreement being attached and incorporated herein as Exhibit "1".

The Board further directs that the City Clerk shall cause a certified copy of this ordinance and original agreement to be filed with the Carson City Recorder.

PROPOSED on _____, 2018.

PROPOSED by _____.

PASSED _____, 2018.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

SUE MERRIWETHER
CLERK/RECORDER

This ordinance shall be in force and effect from and after the _____ day of _____, 2018.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“AGREEMENT”) is made and entered into this ____ day of _____, 2018, by and between SCHULZ INVESTMENTS, LLC, a Nevada limited liability company as the developer of a real property development project known as SCHULZ INVESTMENTS TENTATIVE SUBDIVISION MAP (TSM-14-022), hereinafter referred to as “DEVELOPER,” and CARSON CITY, a consolidated municipality and political subdivision of the State of Nevada, hereinafter referred to as “CARSON CITY.”

RECITALS:

1. SCHULZ INVESTMENTS TENTATIVE SUBDIVISION MAP, is a proposed development encompassing 32.68 acres of real property, more or less, located in Carson City, Nevada, APN 007-051-72, more particularly described in Exhibit “A,” attached hereto and incorporated herein by this reference;

2. On August 7, 2014, the Carson City Board of Supervisors approved a Tentative Subdivision Map (TSM-14-022) for six single-family residential lots ranging in size from 5.13 acres to 5.87 acres, on property zoned Single-Family Five Acre (“SF5A”). A copy of the official minutes and conditions of approval relating to that action are attached hereto as Exhibit “B” and incorporated herein by this reference (The Tentative Subdivision Map, the official minutes from August 7, 2014 relating thereto and the relevant conditions of approval concerning the Tentative Subdivision Map are hereinafter collectively referred to as “THE PROJECT”);

3. Due to certain local market and economic conditions that have prevented DEVELOPER from moving forward with THE PROJECT, the DEVELOPER and CARSON CITY believe that it is mutually beneficial to enter into this AGREEMENT and each mutually

desire that THE PROJECT be developed in accordance with the terms and conditions of this AGREEMENT.

4. CARSON CITY and DEVELOPER desire to hereinafter have the provisions of this AGREEMENT govern the development activities of THE PROJECT.

NOW THEREFORE, for good and valuable consideration, and the mutual covenants, conditions, and promises herein contained, the parties do agree as follows:

I.

PROJECT CHARACTERISTICS

THE PROJECT is a Tentative Subdivision Map within the SF5A zoning designation together with all of the uses accessory to and customarily incidental to the above-referenced zone.

Based upon the present Tentative Subdivision Map, THE PROJECT will be comprised of six single-family residential lots, as set forth in the approvals. The density is 5 acres per dwelling unit.

The aforementioned approval of THE PROJECT Tentative Subdivision Map and this AGREEMENT shall serve as the intent by CARSON CITY to approve THE PROJECT, provided that all of the requisite conditions set forth herein are met.

II.

ADMINISTRATION OF THE PROJECT

THE PROJECT shall be developed in accordance with the approvals by the Carson City Board of Supervisors set forth in Exhibit “B” with the following requirements:

2.1 Expiration by Inaction

DEVELOPER agrees and understands that this AGREEMENT, adopted pursuant

to CCMC 17.08, requires that THE PROJECT be diligently pursued and further provides that the approvals referenced hereinabove (if no extension has been granted) shall expire if the final map of THE PROJECT is not recorded on or before August 7, 2022.

2.2 Further Covenants

CARSON CITY shall not require any payments, contributions, economic concessions, or other conditions for approvals, contemplated within or by this AGREEMENT other than as provided herein, or as required by the Board of Carson City Supervisor's conditions of approval, dated August 7, 2014. Nothing set forth in this paragraph is to be construed to mean that CARSON CITY cannot charge its standard permit fees.

2.3 Mutual Cooperation

CARSON CITY shall cooperate with DEVELOPER to obtain all necessary approvals, permits or to meet other requirements which are or may be necessary to implement the intent of THE PROJECT approval in this AGREEMENT. Nothing contained within this paragraph, however, shall require CARSON CITY or its employees to function on behalf of DEVELOPER nor shall this AGREEMENT be construed as an implicit pre-approval of any other actions required by CARSON CITY.

III.

STREET IMPROVEMENT COMPONENTS

The DEVELOPER shall build all street improvements to Carson City standards as set forth in Exhibit B.

IV.

PROJECT CONSTRUCTION REQUIREMENTS

4.1 All construction of THE PROJECT shall be done in accordance with the

Standards Specification For Public Works Construction as adopted by CARSON CITY and all applicable federal, state and local laws and regulations, except as otherwise varied by THE PROJECT approval.

V.

DEFAULTS, REMEDIES, TERMINATION

5.1 General Provisions

Subject to extensions of time by mutual consent in writing, failure or unreasonable delay in performing any term or provision of this AGREEMENT shall constitute a default. In the event of alleged default or breach of any terms or conditions of this AGREEMENT, the party alleging such default or breach shall give the other party not less than thirty (30) days' notice in writing, specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the party alleged to be default shall not be considered in default for purposes of termination, or institution of legal proceedings, or issuance of any building permit.

5.2 After notice and expiration of the thirty (30) day period, the non-defaulting party to this AGREEMENT, at its option, may institute legal proceedings pursuant to this AGREEMENT. Following notice of intent to terminate, the matter shall be scheduled for consideration and review by the Carson City Board of Supervisors during a public meeting.

5.3 Following consideration of the facts and evidence presented in said review before the Carson City Board of Supervisors, either party alleging the default by the other party may give written notice of termination of this AGREEMENT to the other party.

5.4 Evidence of default may also arise in the course of periodic review of this AGREEMENT. If either party determines that the other party is in default following the

completion of the normal periodic review, said party may give written notice of termination of this AGREEMENT as set forth in this section, specifying in said notice the alleged nature of the default, and potential actions to cure said default where appropriate. If the alleged default is not cured within sixty (60) days or within such longer period specified in the notice, or if the defaulting party waives its right to cure such alleged default, this AGREEMENT shall be deemed terminated.

5.5 It is hereby acknowledged and agreed that any portion of THE PROJECT which is the subject of a final map shall not be affected by or jeopardized in any respect by any subsequent default affecting THE PROJECT. In the event CARSON CITY does not reasonably accept, review, approve or issue necessary permits or entitlements for use in a timely fashion as defined by this AGREEMENT, or as otherwise agreed to by the parties, or CARSON CITY otherwise defaults under the terms of this AGREEMENT, CARSON CITY agrees that DEVELOPER shall not be obligated to proceed with or complete THE PROJECT nor shall resulting delays in DEVELOPER's performance constitute grounds for termination or cancellation of this AGREEMENT.

5.6 Enforced Delay, Extension of Time of Performance

In addition to specific provisions of this AGREEMENT, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, avalanches, inclement weather, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, not parties to this AGREEMENT, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance. If written notice of such delay is given to either party by the other party

within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, as may be mutually agreed upon. In addition to any other rights or remedies, after applicable notice and cure periods, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. CARSON CITY shall not be held liable to the DEVELOPER for actual, consequential, exemplary, incidental, or punitive damages as a result of its failure to review or approve permits and entitlements in a timely manner. CARSON CITY will not waive, and instead intends to assert, all available defenses under NRS Chapter 41 to limit liability as a political subdivision of the State of Nevada.

VI.

MISCELLANEOUS

6.1 Carson City Code

Except as otherwise expressly provided in this Agreement or the conditions of approval in Exhibit B, THE PROJECT shall comply with all ordinances and fees adopted by CARSON CITY, applied on a uniform basis to all development projects in CARSON CITY.

The final map shall comply with the conditions set forth in Exhibit B and be recorded in accordance with all applicable CARSON CITY ordinances.

The PROJECT shall be in accord with the objective of Title 17 of CCMC.

Should any provision of this AGREEMENT be deemed to be in conflict with the conditions of approval set forth in Exhibit B, the conditions of approval shall control.

VII.

APPLICABLE LAW AND ATTORNEYS' FEES

This AGREEMENT shall be construed and enforced in accordance with the laws

of the State of Nevada. Should any legal action be brought by either party relating to this AGREEMENT or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the court.

VIII.

SUCCESSORS AND ASSIGNS

The parties hereto agree that the terms and conditions of this AGREEMENT shall bind and inure to the benefit of the parties' successors and assigns.

IX.

ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding between the parties with respect to the subject matter hereof, and supersedes all other agreements, written or oral, between the parties with respect to such subject matter.

X.

HOLD HARMLESS AND INDEMNIFICATION

10.1 DEVELOPER hereby agrees to, and shall hold CARSON CITY, its elective and appointive boards, commissions, officers, agents and employees harmless from any liability for damage or claims for property damage which may arise from DEVELOPER or DEVELOPER'S contractors', subcontractors', agents', or employees' operations under this AGREEMENT, whether such operations are controlled by DEVELOPER or by any of DEVELOPER's contractors, subcontractors, or by any one or more person directly or indirectly employed by, or acting as agent for DEVELOPER or any of DEVELOPER's contractors or subcontractors. DEVELOPER agrees to, and shall defend CARSON CITY, its elective and

appointive boards, commissions, officers, agents and employees, from any suits or actions at law or in equity for damage caused or alleged to have been caused by reason of the aforesaid operations.

XI.

PROJECT AS PRIVATE UNDERTAKING

It is specifically understood and agreed by and between the parties hereto that the subject PROJECT is a private development and no partnership, joint venture or other association of any kind is formed by this AGREEMENT. The only relationship between CARSON CITY and DEVELOPER is that of a government entity regulating the development of private property within the parameters of applicable law and the owner of such private property.

XII.

FURTHER ASSURANCES

12.1 In the event of any legal action instituted by any third party or other government entity or official challenging this AGREEMENT, CARSON CITY and DEVELOPER shall cooperate and use their best efforts in defending any such action.

12.2 The Parties hereby agree to reasonably perform, execute and deliver, or cause to be performed, executed and delivered, any and all such further actions or documents as may be reasonably required to consummate fully the transactions contemplated hereunder.

Effective this _____ day of _____, 2018.

///

///

///

///

SCHULZ INVESTMENTS, LLC,
a Nevada limited liability company

CARSON CITY,
a consolidated municipality

By: _____

By: ROBERT CROWELL, Mayor

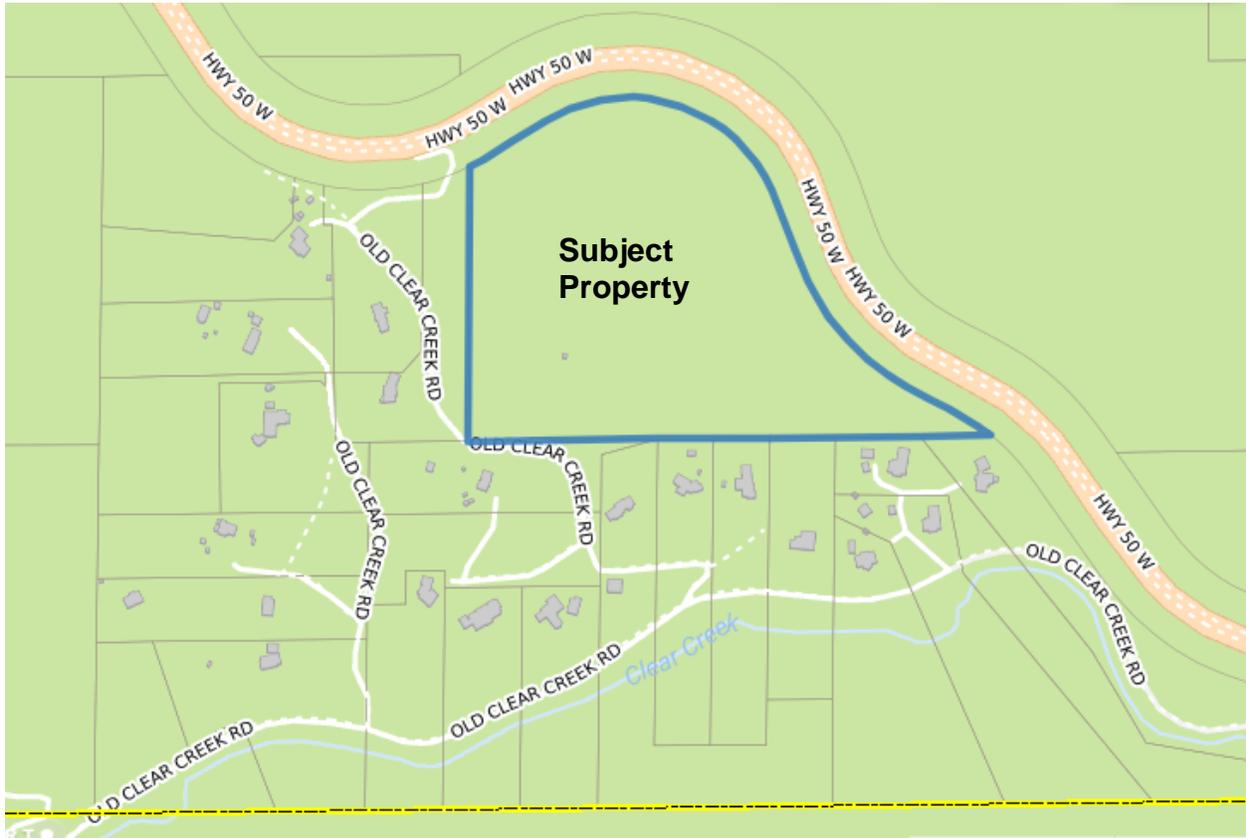
Approved as to form:

CARSON CITY DISTRICT ATTORNEY

By: _____

EXHIBIT "A"

All that real property situated in Carson City, Nevada, containing 32.68 acres, more or less, APN 007-051-72, more particularly described in recorded document #415135 with the Clerk-Recorder's Office, as shown below:



RESULT:	Approved [5 - 0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisor John McKenna
AYES:	Supervisors Abowd, McKenna, Bonkowski, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

13(B) POSSIBLE ACTION TO APPROVE A FINAL SUBDIVISION MAP, KNOWN AS SCHULZ RANCH, PHASE 1, FROM SCHULZ RANCH, LLC, RESULTING IN THE CREATION OF 100 RESIDENTIAL LOTS, ON PROPERTY ZONED SINGLE FAMILY 6,000 - SPECIFIC PLAN AREA ("SF6-SPA"), LOCATED AT 7001 CENTER DRIVE, APNs 009-311-65, -67, AND -68, WHICH FULLY COMPLIES WITH ALL THE CONDITIONS OF APPROVAL, AS CONTAINED IN THE SCHULZ RANCH COMMON OPEN SPACE DEVELOPMENT TENTATIVE MAP STAFF REPORT AND SCHULZ RANCH DEVELOPMENT AGREEMENT, AS AMENDED, PURSUANT TO THE REQUIREMENTS OF THE CARSON CITY MUNICIPAL CODE, FSM-14-015 (1:35:17) - Mayor Crowell introduced this item. Planning Manager Susan Dorr Pansky reviewed the agenda materials, and responded to questions of clarification, in conjunction with displayed slides. Engineering Manager Danny Rotter and Ms. Dorr Pansky responded to additional questions of clarification regarding various conditions of approval, as outlined in the staff report.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to approve a final subdivision map, known as Schulz Ranch, Phase 1, from Schulz Ranch, LLC, resulting in the creation of 100 residential lots, on property zoned single-family 6,000 - specific plan area, located at 7001 Center Drive, APNs 009-311-65, -67, and -68, which fully complies with all of the conditions of approval, as contained in the Schulz Ranch Common Open Space Development Tentative Map staff report and Schulz Ranch Development Agreement, pursuant to the requirements of the Carson City Municipal Code. Supervisor McKenna seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor John McKenna
AYES:	Supervisors Bonkowski, McKenna, Abowd, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

→ 13(C) POSSIBLE ACTION TO APPROVE A REQUEST FROM SCHULZ INVESTMENTS, LLC FOR A TENTATIVE SUBDIVISION MAP FOR SIX SINGLE-FAMILY RESIDENTIAL LOTS, RANGING IN SIZE FROM 5.13 ACRES TO 5.87 ACRES, ON PROPERTY ZONED SINGLE FAMILY FIVE ACRE (SF5A), LOCATED ON OLD CLEAR CREEK ROAD, APN 007-051-72, TSM-14-022 (1:42:27) - Mayor Crowell introduced and provided background information on this item. In response to a question, Planning Manager Susan Dorr Pansky reviewed the requirements to utilize Highway 50 for construction access. She advised that the developer's representative and staff have

CARSON CITY BOARD OF SUPERVISORS
Minutes of the August 7, 2014 Meeting
Page 12

concluded that utilizing Highway 50 for construction access is infeasible. In response to a question, she advised that staff considers access as part of the approval process for a tentative subdivision map. Engineering Manager Danny Rotter provided background information on the subject property in conjunction with displayed maps. Ms. Dorr Pansky provided additional clarification, and she, Mr. Rotter, and Chris Baker, of Manhard Consulting, responded to corresponding questions and questions regarding access and utilities. Extensive discussion followed.

Ms. Dorr Pansky reviewed the July 28, 2014 memo which was included in the agenda materials, specifically conditions of approval 22, and 54 through 56. She further reviewed a memo, dated August 7, 2014, which was distributed to the Board members, staff, and the public prior to the start of the meeting. She responded to corresponding questions of clarification. In response to a question, Fire Chief Stacey Giomi provided background information on condition of approval 22. He and Mr. Baker responded to additional questions of clarification, and discussion ensued. Mr. Baker responded to questions of clarification regarding conditions of approval 54 and 55.

Chief Giomi advised of having spoken with the State Fire Marshal, who advised that "since adoption of the code, they haven't had any requests or instances where they've had to deviate from that 20-foot width." He suggested looking at the "site on a case-by-case basis, make a determination if additional hardening of the property could be done. ... But, generally, he would require 20 feet where 20 feet would exist or where 20 feet were possible and, where it wasn't, he would consider alternatives as proposed by a developer." Following review of condition of approval 22, Chief Giomi expressed agreement with the proposed language "with the understanding to everyone involved that it's going to be 20 feet unless there's some engineering reason why it can't be made to be 20 feet." Discussion followed.

Mayor Crowell entertained public comment, and provided direction with regard to the same. (2:39:59) In conjunction with displayed slides, Sandra Tarr pointed out "another shared driveway that goes right to Mr. Schulz's property. It's a much more direct route ..." She advised of having spoken with the owner of the residence to the right of the shared driveway, who informed her that no one had ever approached them to discuss access to the Schulz parcel. She discussed concerns regarding utilities, widening the road by 20 feet, and the potential for a decrease in her property value. She responded to questions of clarification, and discussed additional concerns over ongoing construction associated with the proposed subdivision. Discussion took place regarding the purpose of easement.

(2:51:11) In conjunction with displayed slides, Dean Anderson provided background information on his communications with the Schulz family regarding access at the time parcel map 1740, recorded November 30, 1989, was made. Mr. Rotter reviewed details of parcel map 1286, recorded July 1986, which provided for a 60-foot wide public utility access and drainage easement that was not along the alignment of the existing road. Parcel map 1583 revised that alignment and called it a public utility access and drainage easement. Parcel map 1740 "is the one with the language stating A, C, and D as shown on record plat 1018, and for the northeast quarter of the southwest quarter of section 35." Mr. Anderson provided additional background information on the development of parcel 1740. He explained, "when we did that, something slipped by then because we tried to make sure that there was no access simply to make the lots ... worth more. And we tried to keep it a little private on the road because we didn't want all the people on the road."

CARSON CITY BOARD OF SUPERVISORS
Minutes of the August 7, 2014 Meeting
Page 13

(2:55:10) In response to a question by Steve Granelli, Fire Chief Stacey Giomi advised of “clauses in the Fire Code that allow wiggle room ... for 'alternative means and methods.' So that essentially means that you have to do A, unless you can come up with an alternative means or method that gets you the same thing that A is getting you. ... given that the topography and the slope allows for 20 feet, it's going to be 20 feet. Someone's going to have to come to me and I'm going to have to go to the State Fire Marshal for them to prove to me that they absolutely cannot do 20 feet. It's an engineering impossibility. Because the natural extension of that is you deny someone the use of their property because of a foot or a half a foot. And that's not what we try and do in the Fire Code.” Chief Giomi acknowledged that the easement is 60-feet wide and most of the road is 11 feet.

Mr. Granelli advised of having reviewed the video of the July 17, 2014 Board of Supervisors meeting, and that there had been no neighborhood meeting scheduled. He further advised of having met with Dave Rubin from the Fire Department, Ms. Pansky, and Mr. Rotter to “raise [his] concerns.” He advised of having made a video recording of the driveway. Mayor Crowell noted the recorded public access to the Schulz property. Mr. Granelli expressed extreme concern over “a road that is approximately 11 feet wide, quite steep, and adding 12 - 15 cars on that road. That is a major safety issue.” Discussion followed in conjunction with displayed slides. In response to a question, Mayor Crowell advised that Old Clear Creek Road is not part of the decision making process relative to the subject item. Mr. Granelli advised of having been informed that “sometime in the mid-1990s, the Department of Public Works from Carson City came up to the abandoned road and did some improvement to that road.” He suggested that “this becomes a major point of litigation. ... this is a road built by taxpayer dollars, maintained by taxpayer dollars, abandoned, multiple meetings with neighbors about recognizing that it's a hazard and trying to get something done. ... no effort has been made in approximately eight years and now you have this little thing going on where ... probably somebody from Carson City, with probably very good intent, came up and touched that road. Now, the question is do they own it.” Mr. Granelli advised that the video he made of Old Clear Creek Road “is so eye-opening with piles of sand coming out onto the road after this rainstorm which was approximately three or four days after the fire ... And I have on video a county-maintained road full of sand and a hazard.” He expressed the belief that “there is a moral responsibility from the Schulz development to do some road repair, minimal, but to at least make it safe.” He recommended that the Board watch the video he had emailed to Supervisor Shirk.

(3:13:13) Dixie Bush provided historic information on Old Clear Creek Road, based on her 17-year residence at the top of the canyon, noting that “technically speaking, it's a private road ...” Discussion followed.

Supervisor McKenna requested any interested citizen with pertinent information to provide said information to Public Works Department Director Darren Schulz. He expressed the belief that the responsibility for Old Clear Creek Road needs to be determined “once and for all” and that the Regional Transportation Commission is the “place to do it.”

(3:20:39) Margaret “Peg” Kehres commended Carson City Fire Department personnel on the way they handled the recent evacuation. She pointed out the difference between “driveways to people's homes [which are] not necessarily roads. They're not constructed as roads, according to the City [Codes].” She advised that there were “three huge [fire] rigs in [her] drive” during the evacuation, and the firemen seemed happy with all the driveways. In reference to a meeting with Mr. Baker and a few of her neighbors, she noted the possibility that houses may never be constructed in the proposed subdivision. Mayor Crowell

CARSON CITY BOARD OF SUPERVISORS

Minutes of the August 7, 2014 Meeting

Page 14

acknowledged the difficulties associated with “know[ing] what we really are discussing.” Ms. Kehres referenced the July 31, 2014 letter, which was distributed as “late material,” and advised that it had been written on the advice of a local attorney.

(3:25:50) Jim Tarr reviewed the July 31, 2014 letter, and discussed recent percolation tests conducted by Resource Concepts, Inc. which included the use of heavy equipment. He respectfully suggested that the Board defer action until such time as all the possibilities for access are investigated.

Mayor Crowell recessed the meeting at 3:29 p.m., and reconvened at 3:39 p.m. Mayor Crowell entertained additional public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to approve a request from Schulz Investments, LLC for a tentative subdivision map for six single-family residential lots ranging in size from 5.13 acres to 5.87 acres, on property zoned single-family five acre, located on Old Clear Creek Road, APN 007-051-72, based on the findings and subject to the revised conditions of approval, including revision to condition 22, so it shall read: “The access road from Old Clear Creek Road to the subject property may be widened to a minimum surface width of 20 feet, subject to site assessment and topographical conditions, if deemed necessary by the Engineering Division or the Fire Department for public safety reasons. An alternate solution may be proposed to limit maintenance impacts on existing homeowners, but shall be reviewed and approved by the Engineering Division and the Fire Department prior to final map approval. Due to the unique circumstances of the project residential area and low traffic impacts, full depth reconstruction on any improvements will not be required”; and to add condition 54 and 55; and to delete condition 56 of the staff report. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion. Supervisor Bonkowski discussed the importance of legal access from Old Clear Creek Road to the Schulz property. “Unfortunately or fortunately, depending on your viewpoint, private property rights are equal under the law for all property owners which means, as long as you have legal access to the Schulz property, he has the right to develop it and that is the issue that is here before us today.” With regard to the final map conditions of approval, Supervisor Abowd requested ongoing discussion between the existing and the new property owners “such that the road is maintained.” She referenced condition of approval 55. Mayor Crowell noted that Supervisor McKenna, as chair of the Regional Transportation Commission, had requested to agendaize discussion and possible action of the Old Clear Creek Road maintenance issue. Mayor Crowell called for a vote on the pending motion.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bonkowski, Abowd, McKenna, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Mayor Crowell thanked the citizens for their articulate and courteous comments. Supervisor McKenna requested Ms. Works to include the Old Clear Creek Road residents on the mailing list for the Regional Transportation Commission agendas.

14. PUBLIC COMMENT (3:44:24) - Mayor Crowell entertained public comment; however, none was forthcoming.



Carson City Planning Division

108 E. Proctor St.
Carson City, Nevada 89701
(775) 887-2180
Planning@carson.org
www.carson.org

RECEIVED

AUG 22 2014

CARSON CITY
PLANNING DIVISION

★ CLERK ★
FILED

Time 1 pm

**BOARD OF SUPERVISORS
AUGUST 7, 2014**

AUG 19, 2014

NOTICE OF DECISION

By T. Sharron
Deputy
Carson City, Nevada

A request was received, TSM-14-022, from Schulz Investments, LLC for a Tentative Subdivision Map for six single-family residential lots ranging in size from 5.13 acres to 5.87 acres on property zoned Single Family Five Acre (SF5A), located on Old Clear Creek Road, APN 007-051-72.

The Board of Supervisors conducted a public hearing on August 7, 2014, in conformance with the City and State legal requirements, and approved TSM-14-022 based on the findings contained in the staff report and subject to the following conditions of approval:

CONDITIONS OF APPROVAL

The following are general conditions of approval:

1. The applicant must sign and return the Notice of Decision including conditions of approval within 10 days of receipt of notification. If the Notice of Decision is not signed and returned within 10 days, the item may be rescheduled for the next Planning Commission meeting for further consideration.
2. Prior to submittal of the any Parcel Map or preferably Final Map, the Engineering Division shall approve all on-site and off-site improvements. The applicant shall provide construction plans to the Engineering Division for all required on-site and off-site improvements, prior to any submittals for approval of a Final Map. The plan must adhere to the recommendations contained in the project soils and geotechnical report.
3. Individual homes will require application for a Building Permit, issued through the Carson City Building Division. This will necessitate a complete review of the project to verify compliance with all adopted construction codes and municipal ordinances applicable to the scope of the project.
4. All lot areas and lot widths shall meet the zoning requirements approved as part of this Tentative Map with the submittal of any Parcel Map or preferably Final Map.

5. A Site Improvement Permit will be required for all roadway and drainage improvements intended to serve the entire site.
6. Hours of construction will be limited to 7:00 a.m. to 7:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturday and Sunday. If the hours of construction are not adhered to, the Carson City Building Division will issue a warning for the first violation, and upon a second violation, will have the ability to cause work at the site to cease immediately.
7. A Final Map, prepared in accordance with the Tentative Map, for the entire area for which the Tentative Map has been approved or the first of a series of Final Maps covering a portion of the approved Tentative Map must be approved by the Board for recording within four years after the approval of a Tentative Map unless a longer time is provided for in an approved development agreement with the City. If the subdivider elects to present a successive map in a series of phased Final Maps, the successive Final Map must be approved by the Board within two years of the recording of the preceding Final Map. The Board may grant an extension of not more than two years for any successive Final Map after the two-year period for presenting a successive Final Map has expired.
8. Prior to the recordation of the Final Map for any phase of the project, the improvements associated with said phase must either be constructed and approved by the City, or the specific performance of said work secured by providing the City with a proper surety in the amount of one hundred fifty percent (150 %) of the engineer's estimate. In either case, upon acceptance of the improvements by the City, the developer shall provide the City with a proper surety in the amount of ten percent (10 %) of the engineer's estimate to secure the Developers obligation to repair defects in workmanship and materials which may appear in the work within one year of acceptance by the City.
9. Snow removal within the Schulz Investments Subdivision will be the responsibility of the residents and will not be performed by Carson City.
10. All development shall be in compliance with Carson City Development Standards Division 7, Hillside Development, as the average slope of the area to be developed is in excess of 15%.
11. ~~The maximum number of residential lots shall be six for the Schulz Investments subdivision.~~
12. Lots not planned for immediate development shall be left undisturbed and no mass grading and clearing of natural vegetation shall be allowed. Any and all grading shall comply with City standards. A grading permit from the Nevada Division of Environmental Protection shall be obtained prior to any grading. Noncompliance with this provision shall cause a cease and desist order to halt all grading work.

The following shall be included in the design of the Improvement Plans:

13. The applicant shall adhere to all City standards and requirements for water and sewer systems, grading and drainage, and street improvements.
14. The primary access road must meet all Carson City Standards and Details. (This comment is specific to the access road within the subdivision).
15. Roadway drainage facilities need to provide erosion control structures. Sediment run off is a major concern in this area.
16. In accordance with Carson City Development Standards 12.10 and 12.11.10, pavement sections shall be based on subgrade strength values determined by Resistance (R) Value or California Bearing Ratio (CBR) as shown in the Soils Engineering Report. Refer to Carson City Development Standards, Division 17 for soils report requirements. In no case shall the proposed pavement section be less than the minimum section prescribed in standard drawing C-1.12.
17. Storm drainage facility improvements shall be design in accordance with Carson City Development Standards Division 14. A Technical Drainage Study is required with submittal of Improvement Plans in accordance with Carson City Development Standards 14.9 through 14.10.
18. An emergency egress road shall be constructed as shown on the tentative grading plan to provide secondary access from Highway 50 West. The emergency access road shall be constructed and maintained as an all-weather surface having width and slope as directed by the Fire Department. The applicant shall obtain appropriate easements.
19. Provide a detail showing how the emergency access road will connect to U.S. Highway 50 and whether there will be any gates.
20. The subdivision needs to provide for yearly maintenance of all private facilities. Provide the Planning and Engineering Divisions with documentation of the mechanism by which this maintenance will be accomplished for review and approval.
21. ~~Appropriate erosion control measure such as waddles, tarps, etc. shall be utilized during all construction activities associated with general site improvements and until vegetation stabilizes the soil.~~
22. The access road from Old Clear Creek Road to the subject property may be widened to a minimum surface width of 20 feet, subject to site assessment and topographical conditions, if deemed necessary by the Engineering Division or the Fire Department for public safety reasons. An alternate solution may be proposed to limit maintenance impacts on existing homeowners, but shall be

reviewed and approved by the Engineering Division and Fire Department prior to Final Map approval. Due to the unique circumstances of the project residential area and low traffic impacts, full depth reconstruction on any approved improvements will not be required.

The following shall be conditions to be completed prior to obtaining a Construction Permit or Final Map:

23. Final improvement plans for the development shall be prepared in accordance with CCDS Division 19 and the Standard Specifications and Details for Public Works Construction, as adopted by Carson City.
24. The applicant shall obtain dust control and stormwater pollution prevention permits from the Nevada Division of Environmental Protection (NDEP). The site grading must incorporate proper dust and erosion control measures.
25. Update the map to include proposed domestic well locations for each lot with a 100 foot radius around each well. Due to slope and site restrictions, domestic wells must be proposed in an area that would feasibly permit access by a well driller (i.e., within the building envelope). Each lot must meet setback requirements addressed in NAC 444.792.
26. Address detention basin and culvert maintenance responsibility. Carson City will not provide maintenance for these facilities.
27. Provide the Planning and Engineering Divisions with documentation of legal access to U.S. Highway 50. If legal access does not currently exist, provide a copy of the new NDOT encroachment permit for access.
28. Prior to any grading adjacent to the NDOT right-of-way, a Drainage Report, including a grading plan, and a Drainage form must be submitted to the Permit office. Please contact the NDOT Permit Office at (775) 834-8330 for more information.
29. NDOT requires an occupancy permit for any work performed within the State's right-of-way.
30. NDOT requires the use of only legal, permitted accesses onto State roadways. All driveway accesses to the state highway system will be required to comply with the NDOT access management guidelines at the time of application. Some applicants are required to provide cross access easements to adjacent parcels in order to provide adequate access for development while meeting the NDOT access management requirements. Public improvements, like turn lanes and medians, may be required to mitigate proposed access points. The applicant may be required to provide a Traffic Study to determine the impacts of any new driveways to the state highway system and any required mitigation strategies. A

change or an increase in the function of the property served by an existing access or street may require a new right-of-way encroachment permit.

31. It is the applicant's responsibility to perform title research and identify if NDOT has purchased access and abutters rights for the parcel where an access is proposed. Any break in the access control will need to be processed through the state surplus property committee. This process can be quite lengthy and success is not guaranteed.
32. Apply for a Timberland Conversion Certificate (NRS 528.0820). This process can be completed in two weeks.
33. Submit a forest fire prevention and suppression plan with the State Forester/Firewarden if any logging or equipment work will occur during the fire season.

The following must be submitted or included with the Final Map:

34. All Final Maps shall be in substantial conformance with the approved Tentative Map.
35. The following notes shall be added to the Final Map:
 - A. "These parcels are subject to Carson City's Growth Management Ordinance and all property owners shall comply with provisions of said ordinance."
 - B. "All development shall be in accordance with the Schulz Investments Tentative Map (TSM-14-022)."
 - C. "The parcels created with this Final Map are subject to the Residential Construction Tax payable at the issuance of Building Permits for residential units."
 - D. "Old Clear Creek Road, the primary means of access, is not located in a public right-of-way and is not owned and operated by Carson City. As Carson City does not control access on the road, Carson City cannot guarantee that public access will be perpetuated on this road."
36. A copy of the signed Notice of Decision shall be provided with the submission of any Final Map.
37. With the submittal of any Parcel Map or preferably Final Map, the applicant shall provide evidence to the Planning Division indicating the all agencies' concerns or requirements have been satisfied and that all conditions of approval have been met. Said correspondence shall be included in the Final Map submittal package.

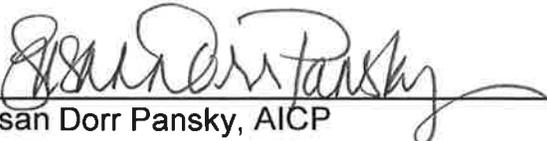
38. Information regarding water quality shall be provided with the Final Map submittal. Engineering will accept water quality results in the representative form approved by the Nevada Division of Environmental Protection for their Final Map signature.
39. All streets within the boundary of the Schulz Investments subdivision shall be named in accordance with Carson City Development Standards, Division 22 – Street Naming and Address Assignment. Street names shall be reviewed and approved by Carson City GIS and shall be shown on the Final Map.
40. The District Attorney shall approve any CC&Rs prior to recordation of the first Final Map.

The following are applicable to Building Permit Submittal for Individual Lots:

41. Provide a copy of the signed Notice of Decision with any Building Permit application.
42. Each residential lot is subject to the Residential Construction Tax.
43. A Vegetation Management Plan may be required for each individual lot. A site visit by Fire Department personnel during the Building Permit process will determine necessity and level of vegetation management required.
44. Each lot will require an approved adequate water supply for fire protection purposes as follows:
 - A. Single family homes having a fire flow calculation area not exceeding 3,600 square feet shall be 1,000 gallons per minute for a minimum duration of 30 minutes;
 - B. Single family homes having a fire flow calculation area exceeding 3,600 square feet shall be 1,500 gallons per minute for a minimum duration of 30 minutes.
45. Appropriate erosion control measure such as waddles, tarps, etc. shall be utilized during all construction activities associated with individual lot improvements and until vegetation stabilizes the soil.
46. With the Building Permit submittal for each individual lot, two percolation tests as described in NAC 444.796 – 444.7968 will be required for proposed septic system design/construction. The percolation tests submitted with the Tentative Map will not be accepted to meet this requirement.
47. Individual domestic wells shall meet State and City regulations and code requirements and have a city permit issued prior to drilling.

48. Future development of the individual lots is subject to the Hillside Development requirements within Division 7 of the Carson City Development Standards. Development on slopes steeper than 15% will require engineered grading, drainage, erosion control and revegetation plans prior to individual lot development. Maximum allowable driveway slope will be 12%.
49. Before a Certificate of Occupancy may be issued for any structure, the project engineer shall certify in writing that the improvements as building are in compliance with the regulations of Carson City Municipal Code, Section 18.08 – Hillside Development.
50. Driveways which exceed 150 feet in length will require approved turnarounds. Driveways exceeding 200 feet in length will require approved turnouts.
51. Each home site needs to infiltrate a two year storm event on the subject property.
52. Apply for a Timberland Conversion Certificate (NRS 528.0820). This process can be completed in two weeks.
53. Submit a forest fire prevention and suppression plan with the State Forester/Firewarden if any logging or equipment work will occur during the fire season.
54. The developer shall be responsible to repair any off-site damage to the access road between the subject property and Old Clear Creek Road that is caused as a result of the construction of subdivision infrastructure improvements associated with the project. The developer shall submit photographic and written documentation of the access road condition before and after the construction of infrastructure improvements to substantiate any damage that may be caused during the construction process.
55. The developer shall, in good faith, make his/her best effort to join the existing maintenance agreement for the access road between the subject property and Old Clear Creek Road.

This decision was made on a vote of 5 ayes and 0 nays.



Susan Dorr Pansky, AICP
Planning Manager

SDP/jmb

**PLEASE SIGN AND RETURN THIS NOTICE OF DECISION WITHIN
TEN DAYS OF RECEIPT**

This is to acknowledge that I have read and will comply with the Conditions of Approval as approved by the Carson City Board of Supervisors.


OWNER/APPLICANT SIGNATURE

08/22/14
DATE

WILLIAM E. SCHULZ
PLEASE PRINT YOUR NAME HERE
MANAGING PARTNER S.I.
SCHULZ INVESTMENTS L.L.C.

RETURN TO:

Carson City Planning Division
108 E. Proctor St., Carson City, NV 89701

- Enclosures: 1. Board of Supervisors Notice of Decision (2 copies)-Please sign and return only one. The second one is for your records.
2. Self-addressed stamped envelope