

STAFF REPORT FOR THE PLANNING COMMISSION MEETING OF APRIL 24, 2019

FILE NO: MISC-19-047

AGENDA ITEM: E-4

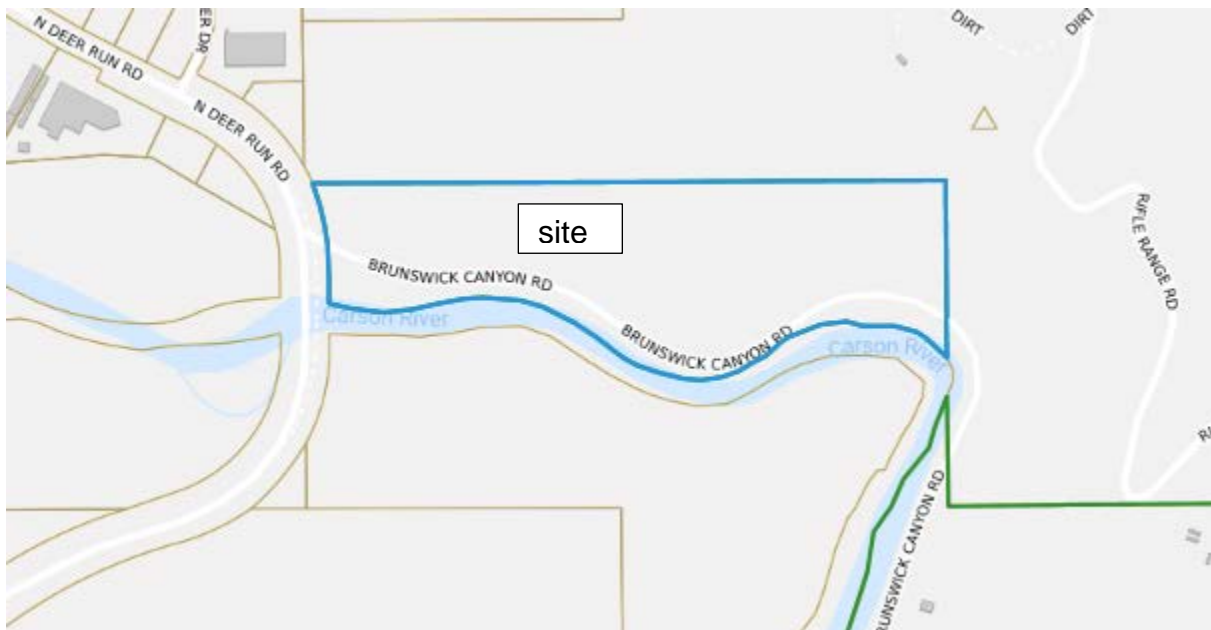
STAFF CONTACT: Hope Sullivan, Planning Manager

AGENDA TITLE: Discussion and possible action requesting that the Director investigate the conduct of Brunswick Canyon Materials, LLC relative to Special Use Permit U-79-25, located at 7400 Brunswick Canyon Road, APNs 008-531-44 and 008-531-45. (Hope Sullivan, hsullivan@carson.org.)

STAFF SUMMARY: On December 27, 1979, the Planning Commission approved Special Use Permit U-79-25, a special use permit to operate a concrete batch plant, a hot plant operation, and to remove earth products on the subject property. This Special Use Permit includes a condition that states, in part: "Public recreation access through the subject property, on defined roadways, must not be restricted." Allegations have been made that public recreation access has been restricted.

RECOMMENDED MOTION: "I move to request that the Community Development Director investigate the conduct of Brunswick Canyon Materials, LLC relative to Special Use Permit U-79-25.

VICINITY MAP:



BACKGROUND / ISSUES

Brunswick Canyon Materials, LLC operates a pit at 7400 Brunswick Canyon Road. Access to the pit is from Brunswick Canyon Road.

Carson River Canyon Open Space, 870 acres purchased by Carson City for the preservation of open space, protection of floodplain and wildlife habitat, and public access for passive recreation, is also accessed from Brunswick Canyon Road.

On December 27, 1979, the Planning Commission approved Special Use Permit U-79-25, a special use permit to operate a concrete batch plant, a hot plant operation, and to remove earth products on the subject property. This Special Use Permit was initially reviewed by the Planning Commission every year, and then every two years until 2007. Since 2007, the staff reviews the Special Use Permit administratively every other year.

Initially, condition of approval number 11 stated that access through the property on a clearly defined road will not be restricted.

In 1988, the conditions were modified to include condition of approval 6 which states "Public access through the subject property, on the defined roadway, shall not be restricted."

In 2001, 2003, and 2007, condition of approval number 4 stated, in part, "Public Recreation access through the subject property, on defined roadways, must not be restricted."

The Planning Commission has not reviewed the Special Use Permit since 2007.

On March 15, 2017, the Community Development Director received a letter from a representative of Brunswick Canyon Materials, LLC advising that Brunswick Canyon Materials, LLC purchased the property that has historically been known as the Bertagnolli Pit, located at and near 7400 Brunswick Canyon Road. The letter states "As you are aware, years ago, the City approved a Special use Permit for the subject site, Special Use Permit U-79-25, which allows the operation of a sand and gravel operation including a batch plant on property that is zoned Conservation Reserve (CR)." The letter goes on to state "Our client intends to continue operating the facility subject to the terms of the existing Special Use Permit."

On March 21, 2019 at 6:15 PM, a Carson City Parks Ranger ("Parks Ranger") found a locked gate preventing access to Brunswick Canyon Road.

On March 30, 2019, the Parks Ranger found a locked gate preventing access to Brunswick Canyon Road. The gate was locked all day.

On March 31, 2019, the Parks Ranger found a locked gate preventing access to Brunswick Canyon Road. The gate was locked all day.

On April 5, 2019, at 6:15 PM, the Parks Ranger found a locked gate preventing access to Brunswick Canyon Road.

On April 10, 2019, at 6:15 PM, the Parks Ranger found a locked gate preventing access to Brunswick Canyon Road.

On April 13, 2019, the Parks Ranger found a locked gate preventing access to Brunswick Canyon Road. The gate was locked all day.

LEGAL REQUIREMENTS: CCMC 18.02.080 (Special Use Permits), CCMC 18.02.090 (Revocation or reexamination of variance or special use permit) CCMC 18.02.095 (Show cause procedure of variance or special use permit)

Carson City Municipal Code 18.02.090 states “Any of the following reasons or occurrences are grounds for a hearing on revocation or reexamination of a variance or special use permit, pursuant to Title 18 (Show Cause Procedures):

Subsection 1 states, in part:

1. A failure or refusal of the applicant to comply with any of the terms or conditions of a variance or special use permit ...

Carson City Municipal Code 18.02.095.1 outlines the show cause procedure. The first step is:

“The commission, upon its own motion, or upon the sworn complaint in writing of any person, or upon information presented by the director, shall request that the director investigate the conduct of any applicant under this chapter to determine whether grounds for revocation or reexamination of any variance or special use permit exists. The director will notify the applicant of any investigation prior to any public hearing.”

Should the Commission request the investigation, the Director would conduct the investigation, and then advise the Commission of his findings. The Commission would then have the opportunity to direct staff to issue and serve the applicant with an order to show cause why the special use permit should not be revoked. Once the applicant receives a copy of the order, the Planning Commission could then conduct a hearing on the matter.