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A regularly scheduled meeting of the Carson City Planning Commission was held on Wednesday, July 28, 2004, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 3:30 p.m.

PRESENT: Chairperson John Peery, Vice Chairperson Mark Kimbrough, and Commissioners Craig Mullet, Steve Reynolds, Roger Sedway, and William Vance

STAFF PRESENT: Community Development Director Walter Sullivan, Senior Planner Jennifer Pruitt, Senior Engineer John Givlin, Deputy District Attorney Mary Margaret Madden, Recording Secretary Katherine McLaughlin, Associate Planner Sean Foley, and Compliance Officer Allan Biddle (P.C. 7/28/04 Tape 1-0014)

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

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

Chairperson Peery convened the meeting at 3:30 p.m. by welcoming the audience and new Commissioners Vance and Reynolds. He also noted that he is a new Chair and asked that everyone be merciful as he goes through the process. Roll call was taken. A quorum was present although Commissioner Semmens was absent. Commissioner Vance led the Pledge of Allegiance.

B. APPROVAL OF MINUTES - 4/28/04 AND 6/30/04 (1-0035) - Commissioner Kimbrough corrected the date at end of the first sentence in the 4/28/04 Minutes to be 28 and not 4. Commissioner Kimbrough moved to approve the Minutes of June 30 and April 28, 2004, as corrected. Commissioner Mullet seconded the motion. Motion carried 6-0.

C. PUBLIC COMMENTS (1-0050) (1-0075) - Chairperson Peery thanked the local firefighters as well as those from surrounding communities and out-of-state for their efforts to control the Waterfall Fire. They had done a tremendous job. It was a horrendous disaster that could have been much worse without their efforts and service.

D. AGENDA MODIFICATIONS (1-0058) (1-0490) - Chairperson Peery indicated that the Cinderlite Special Use Permit will not be considered before 6 p.m.

E. DISCLOSURES (1-0066) - Commissioner Sedway disclosed that Cinderlite supplies a lot of material for the Hospital project he is working on. He did not feel that it would pose a problem. Commissioner Mullet indicated that he will reclude himself from Item G-2.

F. CONSENT AGENDA (1-0084)

F-1. ACTION TO CONTINUE INDEFINITELY SUP-04-041, A SPECIAL USE PERMIT APPLICATION FROM THE ROBERT POLICHIO FAMILY TRUST

F-2. ACTION FOR A CONTINUANCE OF AB-04-112 TO THE SEPTEMBER 29, 2004,

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MEETING OF AN ABANDONMENT OF PUBLIC RIGHT-OF-WAY APPLICATION - Commissioner Mullet moved to approve the Consent Agenda as stated. Commissioner Reynolds seconded the motion. Motion carried 6-0.

G. PUBLIC HEARING

G-1. MISC-04-127 - ACTION TO APPROVE A RESOLUTION AMENDING THE CARSON CITY MASTER PLAN LAND USE ELEMENT (1-0119) - Community Development Director Walter Sullivan, Redevelopment/Economic Development Manager Joe McCarthy - Mr. McCarthy distributed a sheet to the Commission allegedly explaining what a blighted area is. (A copy was not given to the Clerk.) The packet of late materials included a suggested motion and the resolution. (A copy is in the Clerk's file.) Mr. McCarthy distributed a colored map to the Commission and Clerk. (A copy is in the file.) Discussion indicated that efforts have been made and will continue to be made to reach out to the property owners and explain to them the pros and cons of being included in the Redevelopment District. It was felt that this effort will eliminate the need to use eminent domain in the District as it will contain only property owners who are willing sellers/buyers. If the proposed map and resolution are adopted and any of the property owners opt out, the map and resolution will be amended. A description of the Downtown Redevelopment District and its success was provided. The concept allows for a public/private partnership and incentives which the private property owners feel are necessary to create the revitalization of the area. The process will establish a similar program for the auto sector in the southern portion of the City. It is a demonstration project that is a proactive attempt to keep the auto dealers and sales tax in the community. The period during which the property owners can opt out of the program was limited. Participation in the incentive program is voluntary. Comments stressed that eminent domain will not be used to force property owners to sell. Such sales should be conducted privately between a willing seller and a willing buyer. It was also pointed out that the program could be used for adjacent parcels and for other commercial activities if funding is available. Its primary focus is to stimulate a quality business, such as the auto dealers. The process to amend the map and expand the area was described. Reasons for including the ability to use eminent domain in the proposed district were explained. Such usage will be restricted to "friendly arrangements". Unfriendly takings will not be allowed. Comments noted that friendly takings have federal tax opportunities available to them. The property owners should work with their tax consultants and lawyers to obtain these opportunities. Qualification for the district mandates that the area be declared blighted. This term was developed during the urban renewal period. There are nine categories of blight. It includes the community's belief that there will be a loss of tax revenue within the area. Staff is merely indicating that there is evidence of blight which could use redevelopment programs for enhancement. Comments noted the offensive nature of the term "blight". The program is being used to sustain or enhance the economic vitality of the area. Discussion explained that a "large advisory" committee will be established to solicit and make recommendations to the Redevelopment Authority regarding applications for the incentive programs. Mr. McCarthy suggested that all applications be received, however, not all will be recommended for approval. Approvals will be based upon established criteria. The criteria may prohibit qualification for the incentives. Public comments were solicited but none were given. Commissioner Sedway moved to approve Resolution Number 2004-PC-4, an amendment to the Carson City Master Plan Land Use Element by adopting a map and other descriptive matter of blighted areas in Carson City and that the redevelopment plan conforms to Carson City Master Plan; furthermore, the Planning Commission's approval of this resolution regarding the Master Plan Amendment will be forwarded to the Board of Supervisors and that this material shall constitute the Planning Commission's report and recommendation to the Board of Supervisors regarding Redevelopment Area Number 2. Commissioner

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Kimbrough seconded the motion. Motion carried 6-0.

G-2. SUP-04-094 - ACTION ON A SPECIAL USE PERMIT APPLICATION FROM ENGLELEY DIVERSIFIED INC (1-0510) - Associate Planner Sean Foley, Community Development Director Walter Sullivan, Ancco Properties Representative Gerry Vaccaro, Applicant's Representative Rick Engley, Property Owner Paul Fischer - Mr. Foley's introduction included a computer enhanced map showing the distance between the proposed location and the nearest billboard and the surrounding zoning districts. NDOT had not submitted any comments on the application. NDOT's standard requirement mandates that a permit be obtained from it before construction of the sign occurs. Clarification indicated that there are approximately four locations left in the City for billboards. Discussion indicated that the City cannot regulate the contents of a billboard even though Goal No. 2 of Policy 2.2 appears to indicate that the City can. Public comments were solicited.

Mr. Vaccaro read a letter from Ed Sullivan into the record. He opposed the special use permit but could not attend the meeting due to business and child care needs. He questioned the real need for the signage on Highway 50 in view of the restrictions on business signs. Business signs create revenue for the City through the sales tax. The proposed billboard will become a "pigeon condo". It does not beautify the area. The billboard will depreciate the value of his property. The topography/soil erosion problem encounter with his property was described. The applicant's property owner has refused to correct the problem by constructing a retaining wall. They should not be required to tolerate both a pigeon and a soil erosion problem. The billboard is not needed. It will not enhance the property values. The 30-acre site across the street may become a major shopping center. As a commercial corridor, the site will be important to the area. Billboards do not pay sales taxes which is a major revenue source for the community. He questioned the justification for allowing a billboard when signage for businesses is so restricted. Chairperson Peery explained that the freeway may allow additional billboards in the community. The number of billboard locations left in the community is very restricted. The proposed site is one location. It will be difficult to deny the application as the site meets all of the requirements. It was felt that the Commission shared his sentiment regarding billboards,. The Commission has not done well when a denial is based on aesthetics and appealed to the Board. Discussion between Mr. Vaccaro and the Commission explained his unsuccessful efforts to obtain a retaining wall between the two properties. Mr. Sullivan reminded the Commission that this issue is not the topic for discussion. Mr. Givlin explained that the City is working to meet the Federal Clean Water Act requirements and that a portion of it will address erosion issues. Mr. Vaccaro's problem may be addressed as a part of that effort.

Mr. Engley indicated that he owns three billboards on Highway 50. Local businesses use them for advertising. They pay a lot of revenue to the community. They followed all of the proper procedures and meet all of the regulations. Beauty is in the eye of the beholder. He was not aware of billboard's causing any pigeon problems. They do not need to use any controls to keep pigeons away. Taxes paid for a billboard were indicated. They are a local business and attempt to work with local businesses. He felt that the City has capped the number of billboards that will be allowed in the community. This will reduce clutter created by having a lot of signage. Although there are allegedly four sites left, other variables may reduce that number. Additional public comments were solicited, but none were given.

Discussion between the Commission and Mr. Sullivan indicated that no more billboards can be placed on Highway 395. The ordinance does not indicate whether billboards will be allowed along the freeway. The

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Master Plan will consider this issue. The Department has been approached about placement of billboards along it. Mr. Foley indicated that, if the property along the freeway is rezoned to either GI or GC, the ordinance allows billboards in those zones.

Additional public comments were then solicited. Mr. Fischer explained that he constructed his building before Mr. Vaccaro had purchased his lot. Mr. Fischer indicated that he had agreed to do something about the erosion. Unfortunately Mr. Vaccaro has so much material stored on his site that it is not possible to reach the area to do the work. Mr. Fischer alleged that he had attempted to correct the situation on more than one occasion. Until Mr. Vaccaro moves some of his material, he cannot do anything. Additional public comments were solicited but none were given. Public comments were then closed.

Commissioner Vance moved to approve SUP-04-094, a Special Use Permit request from Bruce Storey to allow the placement of a 288-square foot billboard on property zoned General Industrial located at 5354 Highway 50 East, APN 008-384-34, based on seven findings and subject to the conditions of approval contained in the staff report. Commissioner Reynolds seconded the motion. Commissioner Kimbrough indicated that he would vote for the motion due to the knowledge that there are only four sites left. He wanted to be sure that the Board of Supervisors are not put to work after every Commission meeting overturning what the Commission has done with the billboards. This is his point and he wanted it on the record before he votes. Commissioner Reynolds pointed out that the billboard process is different than that used by business owners for large signs on their property. It is his understanding that the special use permit process is the same for both. Chairperson Peery pointed out that the Commission has gone round and round on sign issues and has had the distinct lack of success in passage on a couple of occasions. On the other hand, that is progress. The motion to approve the billboard was voted and carried on a 4-1-1-1 with Commissioner Sedway voting Naye, Commissioner Mullet abstaining, and Commissioner Semmens absent.

G-3. U-03/04-6 - ACTION ON A REQUIRED ONE YEAR REVIEW OF A SPECIAL USE PERMIT FOR TUM-A-LUM LUMBER COMPANY (1-0904) - Senior Planner Jennifer Pruitt, Dave Messer, Silver State Consultant Julio Sandoval - Ms. Pruitt's introduction asked that the Applicant confirm the new conditions of approval contained in the staff report. If he objects to any of the conditions, he should make his objection known as the Commission has the authority to mitigate the conditions. The adjacent property owner's concerns about fugitive dust were noted. The State has allegedly given the Applicant information on how to address it. The fugitive dust problem is included in the conditions of approval. Staff recommended extension of the time to complete the conditions to December 1, 2004. Discussion between the Commission and Ms. Pruitt explained previous concerns regarding the conditions for a potential expansion as being too burdensome and unwarranted. There had been a lot of discussion between City Staff and the Applicant on those conditions. U-03/04-6 is a new Special Use Permit. Ms. Pruitt felt that the Applicant is aware of the need to meet all of the conditions by December 1, 2004, if the extension is granted. Another extension or delay is not allowed. The Applicant has installed the barb wire as required, however, a portion of it is pointing outwards rather than inwards. It must be corrected as it is a safety issue. Commissioner Mullet explained his presence during the meeting a year ago and his belief that they had failed to meet the conditions of approval at that time. It is now a year later and the same conditions have not been met. Discussion between Ms. Pruitt and Commissioner Mullet questioned which Condition 11 was removed. Ms. Pruitt felt that the landscaping requirement was contingent upon developing the property for a different use. At this time there is no plan for a different use of the property. Therefore, staff believes that the landscaping and all of the other improvements should also be installed. This requirement is the same as that

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required for any other business in operation within the City limits. Commissioner Mullet felt that leeway had been granted on the landscaping due to the belief that the use would be relocated and a different business operation would takeover the site. The area is located within the Downtown Redevelopment District. Now is the busy season for the Applicant's business. Commissioner Mullet had, therefore, concluded that the winter time is slow for the Applicant and revenue may not be as healthy. The Applicant had postponed the work for that reason. Commissioner Mullet suggested that the Applicant apply for incentives from the Redevelopment Authority.

Mr. Messer indicated that he had been present at the last meeting with the Company owner Jim Crawford. A variance was granted. They were to have addressed the conditions before that meeting. The manager at that time has since left. Mr. Messer is now responsible for meeting the conditions, however, he found them to be confusing. They believed that they had until November 24 to complete the conditions. They are putting the funds aside for the work this summer. December is a slow period for them. They will have the work done by November. They have received estimates on the screening and moving the fence. The barb wire will be fixed when the fence is moved. Julio Sandoval is working on the drawings and will submit them for approval soon. They have applied an application to control the dust. They must wait a week and apply a second coating. It, allegedly, is a six month application. It does appear to be helping to control the fugitive dust. When they notice the dust, they will reapply the application. He reiterated his belief that they had until November 24 to meet the conditions as the Notice of Decision was signed on December 12. The equipment in the picture was located on the adjacent parcel and does not belong to Tum-A-Lum Lumber. Mr. Messer indicated that he had friends who will do the sidewalk when Tum-A-Lum acquires the permit. He also indicated that he had read the report and agreed with it.

Public comments were solicited. Mr. Sandoval indicated that they are finishing up the sidewalk details. He was also of the opinion that the work did not have to be done until November 24. Additional comments were solicited but none were given.

Commissioner Kimbrough moved to approve an extension of time to December 1, 2004, precluding any stamps on the documents, to complete the required improvements and satisfy the conditions of approval of U-03/04-6, a Special Use Permit for Tum-A-Lum to extend their legal nonconforming storage yard onto the adjacent subject parcel located at East Ninth Street, Carson City, Nevada, APN 004-055-07, based on seven findings and subject to the amended recommended conditions of approval. Commissioner Sedway seconded the motion. Chairperson Peery expressed his desire to have the work done during the specified timeframe and that he would have a personal lack of patience if it comes back again. He felt that all reasonable timeframes had been given. He indicated that he would vote positively. The motion was voted and carried 6-0.

G-4. AB-04-113 - ACTION ON AN ABANDONMENT OF PUBLIC RIGHT-OF-WAY APPLICATION FROM SERGE AND PATRICIA PUCHERT (1-1268) - Senior Planner Jennifer Pruitt, Community Development Director Walter Sullivan, Applicant's Representative Julio Sandoval, Bette Larsen, Senior Engineer John Givlin - Ms. Pruitt's introduction included noting for the record that the right-of-way was part of the Federal Government Small Tract Subdivision Map and, therefore, a payment for the abandoned property will not be required. Condition No. 6 from the Engineering Department was noted for the record. It requires removal of all fencing and posts that are obstructing the 25-foot section of right-of-way that is to be retained by the City. Discussion explained the drainage easement located to the north of the property. Access to the Weinberg parcel and the drainage basin will be provided over the remaining 25 foot

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right-of-way. Mr. Sullivan explained that the abandonment is for the City's interest in having a roadway in this location. The remaining 25-feet will be used as an access to the Weinberg's parcel and for maintenance of the drainage basin. The one acre parcels were established under the Federal Government Small Tract Subdivision Map. The abandonment gives them additional land for their use without any restrictions on that use. The photograph of the area indicates that the property owners have already placed encumbrances on the use of the right-of-way. Ms. Pruitt reiterated the need for the fencing, including the posts, to be removed from the remaining 25-foot right-of-way. The utility companies indicated they do not have anything in the area that is being abandoned. Clarification indicated that the remaining 25-foot right-of-way will be the only access route to the Weinberg parcel. Ms. Pruitt also felt that right-of-way to the north may be abandoned in the future. The Applicant should advise staff whether the utility pole is within the 25-foot remaining portion of the right-of-way. Commissioner Mullet indicated that the property owner of APN 009-134-01 should not be burden with relocation of the utility pole when he/she develops the easement to his/her property.

Mr. Sandoval explained that the utility pole is outside the 33-foot easement for Hickory Drive. At the north end, the 33-foot easement goes into the SF6 lots. The Weinberg's have an easement on their property. The proposal reduces the 66-foot easement to 25-feet. There are no utilities located in the 66-foot easement at this time. Moving the "wire" does not pose a problem. Discussion explained the location of the utility pole. Mr. Sandoval indicated that the Applicants had read the staff report and agreed with it. He had spent a great deal of time with them on it. They know where the fence will be relocated. Public testimony was solicited.

Ms. Larsen explained that she owns the property at the corner of the drainage ditch. Her access is from Kerinne. The maps require access to the retention basin and that the access must be kept open. The road goes to private property. She questioned how they will be able to maintain the drainage ditch and where their access will be. Mr. Givlin indicated that it is his understanding that the Kerinne Subdivision had obtained an abandonment of a portion of the 66-foot right-of-way but had retain 33 feet for access to the drainage facility. The drainage system that goes to the south must have a connection to the 25 foot corridor. They needed continuity for the ditch. Discussion between Messrs. Sandoval, Givlin, and Sullivan and the Commission explained that the 25-foot easement would go north to the end of the Puchert and Torvinen properties. The easement then becomes 46-foot easement running north behind the subdivision on Kerinne to the drainage basin and ditch. The drainage goes northeast along the boundary of the SF6 lots. The basin was constructed to handle a 100-year event. If the one acre lot is developed into SF6 lots, it will have to contain its drainage on site. Additional public comments were solicited but none were given.

Commissioner Reynolds moved to recommend that the Board of Supervisors approve application AB-04-113, an abandonment of a portion of the 66-foot wide right-of-way located along the easterly property line of Parcel Number 009-133-03 and along the westerly property line of Parcel Number 009-134-02 based on seven findings and subject to the conditions of approval contained in the staff report. Commissioner Mullet seconded the motion. Motion carried 6-0.

RECESS: A recess was declared at 5:10 p.m. A quorum of the Commission was present when Chairperson Peery reconvened the meeting at 5:15 p.m. Commissioner Semmens was absent.

G-5. MISC-04-126 - ACTION TO PROVIDE DIRECTION TO THE PLANNING DIVISION STAFF TO FILE A ZONING MAP AMENDMENT (1-1700) - Community Development Director Walter Sullivan, Senior Planner Jennifer Pruitt, Lumos and Associates Representative Buzz Fitzpatrick - Mr.

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Sullivan's introduction included reasons for not zoning the freeway property at this time. Commission comments supported continuing the policy requiring a 150-foot setback on commercial and industrial districts when abutting a residential district. When the friction area is separated by a freeway, however, the additional setback should not be required. Commissioner Kimbrough expressed his hope that the freeway will include the bicycle/multi-use path which will push the setback even further. Mr. Sullivan indicated that there will be a meeting with NDOT in two years to discuss inappropriately zoned areas abutting the northern portion of the freeway. Commercial zoning along the freeway was felt to be more appropriate in that area. He hoped that this occurs before the State/NDOT decides to dispose of any surplus sites. Public comments were solicited.

Mr. Fitzpatrick displayed a site plan illustrating the problem discovered in planning the Hampton Inn and described another site located on Research Way with the same problem. He stressed the intent to save the ground and use it to its best potential. Chairperson Peery agreed that ground should not be wasted in the City. Additional public comments were solicited but none were given.

Commissioner Mullet moved to approve Planning Commission Policy Number 2004-PCP-1, A POLICY ADOPTING POLICY NUMBER 2004-PCP-001 BY THE CARSON CITY PLANNING COMMISSION REGARDING THE RELAXATION OF SETBACK REQUIREMENTS BETWEEN RESIDENTIAL AND COMMERCIAL/ INDUSTRIAL ZONING DISTRICTS WHEN ENCUMBERED BY A FREEWAY RIGHT-OF-WAY. Commissioner Reynolds seconded the motion. Discussion indicated that the zoning districts included in the motion were correct. The motion was voted and carried 6-0.

H. STAFF REPORTS - REPORT ON BOARD OF SUPERVISORS ACTION ON PRIOR PLANNING COMMISSION APPLICATIONS (1-1958) - Community Development Director Walter Sullivan - The Title 18 ordinance modifications and the abandonment application were approved. Second reading on the ordinance will be held on Thursday. The August agenda will contain a status report on the master plan update. Training on the Open Meeting Law will be scheduled for September or October. Discussion pointed out the need to adhere to its restrictions when in recess. The timeframe for the master plan update has not been finalized. The contract with the consultant should be finalized this month. It contains an 18 month time constraint. The update should be completed by December 2005. The Planning Commission and Parks and Recreation Commission's roles in the process were noted. Open public meetings will be held in September or October at local schools. Public participation was encouraged and is needed. Media coverage in addition to the website will be used to keep the public involved. The planning to date has not included how to handle the freeway and its impact. No formal action was required or taken.

RECESS: A recess was declared at 5:34 p.m. A quorum of the Commission was present when Chairperson Peery reconvened the meeting at 6 p.m. Commissioner Semmens was absent.

G-6. SUP-04-095 - ACTION ON A SPECIAL USE PERMIT APPLICATION FROM CINDERLITE (1-2105) - Senior Planner Jennifer Pruitt, Applicant's Representative Dennis Bryan, Open Space Manager Juan Guzman, Community Development Director Walter Sullivan, Deputy City Engineer John Flansberg, Tom Gray, Craig Holmes, Tricia Lincoln, Lynn Zonge, Kendall Howard, Wes Boyer, Stephen Lani, Gary Lehman, Principal Planner Lee Plemel, Senior Engineer John Givlin - Chairperson Peery reminded the audience to restrict their comments to five minutes. Ms. Pruitt noted for the record that the applicant had been advised on October 30, 2002, to consider expanding into the BLM property. She also

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indicated for the record during her slide presentation the photograph(s) clearly showing that the entrance to the pit is gated.

Mr. Bryan reviewed the history of the site, their use of Goni Road, the original size of the site and usage, the application, and a topographical map illustrating the area. He felt that inclusion of the BLM land would extend the life of the pit 20 to 25 years. He described the reclamation plans that will be implemented at the end of the pit operation. Photos illustrating the current appearance, an illustration of how it may look in ten years, and after reclamation were limned. His comments acknowledged that the operation is creating a scar. Once the area is reclaimed, it will blend with the surrounding area. Drainage will be internal and not be allowed to runoff of the property. The total disturbance will cover 58 acres. A copy of the environmental assessment had allegedly been given to the City. It was required by BLM. BLM had purportedly found that there is no significant impact. Following BLM's 30 day comment period, a decision will be made that will add the public comments to the record. Issues raised by the public were noted. He allegedly had photos illustrating the visual impact which he offered to show if the Commission wanted to see them. One photo was shown illustrating the view from one key observation point. BLM's requirement of a reclamation bond was noted. It will revegetate the site to 3 to 1 slopes to BLM's satisfaction. The seed mix will be BLM's.

Ms. Pruitt introduced the item by reviewing the staff report. A letter from Curtis and Sonya Ratke opposing the application was read into the record. Chairperson Peery explained the San Joaquin fever and how it is created. EPA requirements for mitigation of dust are included in the Conditions and must be stipulated to by the applicant. Ms. Pruitt then read Skip Canfield's letter of opposition into the record and responded to each of his points. Chairperson Peery indicated that he would have the applicant explain the emergency conditions under which he would have the pit open. Discussion between Chairperson Peery and Ms. Pruitt explained the process for a show cause hearing and that the permit would be reviewed every five years. Ms. Pruitt was not aware of any negative interface between the school children and Cinderlite's trucks. (1-2900) Ms. Pruitt then referenced Thomas E. Gray's letter and complimented him on his proposed solutions. Staff's request for a definitive plan on how the site will be secured was explained. She amended Condition 10 to add at the end "after owner/operator and City Planning staff." Condition 17 was amended to note "that the bond shall continue for the life of the project and be updated every three years by the owner, Carson City Engineering and BLM". She asked that the applicant address Condition 19 to explain what wastes are stored on site and whether the applicant concurs with the Condition. She also noted for the record that, if the Special Use Permit is approved today, the previous Special Use Permit would be superseded.

Mr. Guzman explained the Open Space Advisory Committee's review and approval of the application. Although the scar will be worse than that currently seen, it was felt that in 25 to 30 years it will be mitigated and the site contoured to match the surrounding area. The applicant's commitment to provide 40 acres for public use as a mitigation measure was explained. The conservation easement is for the life of the project only. Carson City has first right of refusal to acquire this area. It is needed to provide connectivity with State Parks located in Washoe Valley. Discussion with a geologist had indicated that reclamation is possible and would blend with the surrounding area. Mr. Sullivan described the cinder cone and the slope that would remain. Mr. Guzman agreed with his definition. The process used to bring the item to the Committee was described.

Mr. Flansberg explained the Goni Road analysis. He acknowledged that the road is presently experiencing

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some failures which will require the road to be pulverized and reconstructed in eight to ten years. Evaluation of the applicant's usage on the roadway was used to determine an impact value of \$220,000 as indicated in Condition 14. The proposed pulverizing and reconstruction process was described. Clarification indicated that there are two additional pit operations that Cinderlite is using and hauling on Goni Road. Mr. Flansberg's evaluation had included only the use of the site in the application. He also explained that when the road is reconstructed, it will have 14 foot lanes. The City will bear the cost of this roadway expansion. The decision to "let the road go" and to fill potholes until reconstruction occurs was explained. The road construction needed to handle the truck traffic was noted. Reconstruction should occur in seven to 12 years. Weather and usage variables impact the estimated reconstruction date. Justification for restricting the reconstruction to only the residential area was provided. The length of the residential roadway was estimated to be 4600 linear feet. The \$10,000 per year road obligation was felt to be a clear indication of the firm's community support. Condition 14 suggests that these funds be placed in a special account set aside solely for road mitigation. The City does not currently have such a fund. A letter indicating the amount of sales tax and vehicle registration fees currently paid by the firm was noted. Mr. Flansberg corrected the second sentence of Condition 14 to indicate: "Cinderlite will participate in the reconstruction of Goni Road north of Conestoga" rather than "north of Arrowhead".

Mr. Sullivan noted the findings and conditions in the staff report. He commended Ms. Pruitt on her mitigation measures. He reminded the Commission that the applicant must present his side and the public must present its side. Findings must be made to support or deny the request. He commended Mr. Gray on his letter.

Discussion between the Commission and Mr. Bryan indicated that there will be a five percent annual increase in the operation. There had been only one emergency that required the plant to be open beyond the normal operation period. This occasion occurred in 1997 when the City had a flood. It would require a City emergency similar to that for them to open on Sunday. He indicated that their dust mitigation measures are mandated to meet air quality measures. He also indicated that they must control fugitive dust from the end of Goni Road to the pit. There is a water truck for the plant area. It is an asphalt road from Goni to the pit. They use effluent to water the plant area.

Mr. Sullivan explained that the letter regarding the discolored water was sent to Public Works Operations Manager Tom Hoffert and is related to the City's water system rather than Cinderlite. Chairperson Peery also felt that there should not be a connection between Cinderlite's operation and the turbidity of the water. When the City flushes the water lines, turbidity occurs. Commissioner Mullet asked that Mr. Hoffert be questioned about the possibility of dynamiting breaking the heavy material and causing the water line sediment to be released.

Mr. Bryan explained that the entrance to the pit is gated. Access to the power lines along the south side of the pit has boulders and berms to keep people out. They were willing to place signs at 200 foot intervals along the site and to strategically place boulders to keep people away from the active portion of the pit. He then explained his belief that the referenced cinder cone area is located two miles away from the pit. The knoll on BLM property is not a cinder cone. He then explained that BLM requires a review of the bond every three years. He felt that it could determine if the bond is adequate. The aggregate pit does not produce wastes of any kind. Everything is sold. The small fine material is stockpiled and will be used for reclamation/growth material. They will need 40,000-50,000 tons of growth material when closing the site. It is wet down to

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keep the dust from blowing. This watering creates a crust which keeps the dust from blowing. Vegetation grows on the stock piles. When the wind blows and they are watering, they water everything. An unusual wind storm during off hours will be addressed the same as other operations do. Mr. Sullivan explained NDEP's requirements for dust control. He indicated that the dust must be controlled on a 24-7 basis. Commissioner Mullet suggested that the condition should have this requirement added. Mr. Bryan explained the "berm" area that is to be contoured and seeded within 12 months. Commissioner Mullet urged him to do it as soon as possible. Ms. Pruitt indicated that hydro seeding can occur immediately. The 12-month date is for completion. Commissioner Mullet explained that his concern was created by the fact that they were to have done some revegetation a year ago. Doing it now will show a good faith effort. His safety concerns for the children using Goni Road were noted. Ms. Pruitt assured the Commission that staff will contact the School District about the safety concerns and hoped to find a solution. Mr. Bryan then indicated that he had read the staff report and concurred with it.

RECESS: A recess was declared at 7:13 p.m. A quorum of the Commission was present when Chairperson Peery reconvened the meeting at 7:23 p.m. Commissioner Semmens was absent as indicated.

(2-0362) Public comments were solicited. Mr. Gray read and explained his letter. A copy is in the file. It included both concerns and potential mitigation measures for pedestrian, bicyclists, storm drainage, downstream springs, historical preserves and archeological sites; restricting the number of trucks; imposition of a road improvement fee assessment; elimination of night and weekend operations; documentation of truck trips which should be open to the public; and limiting the life of the Special Use Permit to 10 years. Commissioner Kimbrough explained his personal need for the pit as justification for having it open on Saturdays. He suggested that Mr. Gray submit his comments to BLM for inclusion in its record. Mr. Gray explained his belief that a 3 to 1 reclamation ratio is not normal. He also believed that stockpiles on Boeing Way could be used to handle weekend and emergency requests. Mr. Gray explained that he purchased his home in 2000 and believed that the operation was "okay" at that time. Since then he had learned about the compliance issues. He felt that the expansion request made it a valid time for the homeowners to say it is time to stop. He then explained the location of the Native American site. Justification for having someone look at the drainage flows was provided. If the storm drainage is channeled into the pit, the concerns about runoff and downstream transfers were addressed so long as the pit is large enough to handle the runoff. Mr. Gray then explained the natural rock formations and ownership of that area. Chairperson Peery explained that Mactec had provided a complex rainfall analysis listing 100 and 25 year flows which Mr. Gray may wish to study. He felt that some it was reassuring. Discussion indicated Mr. Gray's belief that seven to 12 years is too long to wait for the road improvements. His safety concerns for bicyclists and pedestrians were reiterated. Additional public comments were solicited.

(2-0788) Mr. Holmes explained his belief that the road would not last seven to 12 years and that Mr. Flansberg's estimate of the road reconstruction cost was too low. Mr. Sullivan explained that the estimate was for only the impact that Cinderlite would create. The formula had been established by NDOT. He agreed that it would be only a fraction of the total cost. He indicated that he would have Mr. Flansberg call Mr. Holmes and discuss his analysis. Mr. Holmes could not believe that Cinderlite should be responsible for just ten percent of the reconstruction costs. Chairperson Peery pointed out the taxes/levies Cinderlite pays that help mitigate the construction costs. Mr. Holmes also questioned how the funds can be set aside for one street and compared the need for reconstruction of Boeing as an example of road improvements now needed in the area. Chairperson Peery agreed that the Commission could not control the funding allocation. This is under the

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Board of Supervisors preview.

Ms. Lincoln expressed her concerns about the traffic interface. She felt that the traffic counters that were placed on the street had been located in a site that would not take an accurate reading of the total usage. She also believed that Open Space Advisory Committee's decision to trade for an area for public access would only bring more people to the area. A separation between bicyclists and pedestrians should occur now and not wait until after the bicycle plan is amended in two years. Cinderlite should be held accountable with annual oversight by the City. Continual postponement of the reclamation efforts should not be allowed. Drainage and mud flows were cited to illustrate the current runoff problems. She urged the Commission to protect the rights of the residents.

Ms. Zonge explained her reasons for suggesting that other building practices be used to protect the stockpiled material, e.g., "Tac-A-Fire". The restoration plan should be reviewed by a separate impartial individual. The bond should be released only upon determination by a third party that the reclamation effort was successful. Seeding should occur in the fall and not during the summertime. Its success should be made during the second year's growth. A bicycle lane should be provided by Cinderlite. The accountability bond should be reviewed by a third party. The permit should be reviewed annually rather than once every five years. Notification to the residents should be provided when the review occurs. A school bus stop should be placed at Goni and Franktown. Open Space will benefit from the spring and archeological sites. Chairperson Peery explained that the Commission does not have the funding for a third party evaluation. The applicant hires the experts and City staff reviews their work. The Board of Supervisors may decide the issue. He would also like to see a separate bicycle lane. BLM is more experienced in bond requirements. The proposed bond is higher than the original bond. Comments suggested that TRPA's funding requirement for applicants be used to acquire funds for third party reviews. Mr. Sullivan explained that the Agricultural Extension Services will be used to evaluate the revegetation project. Ms. Zonge reiterated her belief that if the drainage facilities are not done correctly, they will fail during a storm. She then indicated that she moved to the area in 2000. Traffic has changed since then. There is more truck traffic. New development in the area and its impact on traffic was also noted.

(2-1253) Ms. Howard indicated that her residence is the closest one to the pit. Not all of the residents oppose it. She felt that Cinderlite keeps the dust controlled. She built her home and knew the extraction operation was there. Cinderlite's community support was described to illustrate how it is a good neighbor. Dust is part of being a resident of Nevada. The road mitigation should be required. It should include an amount for public usage, which she felt was a lot. She would not allow her kids on the road due to safety concerns. School bus stops and bicyclists should not be there either. She does not ride her horse along Goni. If Cinderlite is restricted and decides to leave, she questioned whether the next operator would be as good a neighbor. The School District will work with the residents to find safer locations for bus stops as indicated by her ability to move her children's stop to Goni and Salk. She also believed that the truck drivers were the safest drivers on the road.

Mr. Boyer explained his location. He had lived there since 1996. He felt that Cinderlite had not fulfilled its 2002 commitments, e.g., rehabilitating the site. He believed that the dust in the photograph of the 14th clearly indicated that Ms. Howard's home receives dust from the extraction operation. He urged the Commission to deny a second permit until the conditions in the first permit are met. Discussion indicated that the prevailing wind comes from the west toward his and Ms. Howard's residences. Cinderlite has done a good job of

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trying to control the dust. Blasting began occurring in the last few years. It causes the worst cases of dust storms. Blasting appeared to be occurring more often as indicated by two blasting periods in the same week as the Waterfall Fire.

Mr. Lani supported the expansion and the staff's recommendation. He felt that residential encroachment on the pit had occurred. He had acquired his property in 1990 and had discussed the operation and its plans with Mr. Lehman before acquiring his property. Both the extraction operation and the residential area are growing. His aerial photographs of the site were described. He believed that the City should not try to enforce the air and storm water run off. Other agencies should enforce them. If they are found to be in compliance with their standards, then the City's requirements should be in compliance. He, personally, believed that few companies in the City attempt to be as good a neighbor as Cinderlite. It will grow in the future. Additional public comments were solicited but none were given.

Mr. Bryan described his background in the aggregate field. He then explained that his drawings illustrate the operation in 22 to 25 years when 10 million tons are mined at a 3 to 1 slope. They had hired a specialist to determine the 100 year - 24 hour drainage flow. The pit will handle any runoff internally. None will escape the pit. At the end of the operation there will be a 20-acre, three foot deep flat area that will be a detention basin. One-third of the basin will handle the event. He was not certain what would happen if a storm were to hit today. (2-1554) He read the following from the BLM Environmental Assessment regarding the two drainages on the west side of the property. "The Proposed Action would avoid mining out or capturing surface drainage that may support the riparian zone identified south of the project area until such time that Cinderlite provides adequate mitigation measures. These mitigation measures would be approved by the BLM to insure that the Proposed Action would not interfere with or prevent achievement of proper functioning condition of riparian-wetland areas and associated uplands." Some time in the next ten years Cinderlite will have to conduct a study to ensure that any potential problems are mitigated. The same thing would be required if groundwater is struck. It is not anticipated that they will strike the groundwater table. The maximum pit wall will be 3 to 1. Problems encountered with the 3 to 1 ratio were noted. He felt that the average slope during the life of the pit would be at a 1 to 1 ratio. He had read all of the previous conditions of the Special Use Permit and had not seen the \$8,000 bond requirement. He considered BLM to be the expert in mining operations and their reclamation. The EPA does not consider mining operations. The seed mix will be whatever BLM recommends. They consider three year reclamation efforts before declaring it successful and return the funds/bonds. It must be weed free and native vegetation.

Discussion ensued between Mr. Bryan and Commissioner Kimbrough on the need to operate the pit on Saturdays. Mr. Sullivan explained that the 3 to 1 slope would be the optimum. The existing Special Use Permit calls for a 1.5 to 1 slope. The bond increase was recommended as the current bond is inadequate. The new conditions include better expertise in this area. Concerns should be addressed. Better wording or more enforcement should be allowed. Mr. Bryan explained that BLM will approve the bond for reclamation. It will be "magnitudes" higher than \$8,000. They also looked at having a second yard for weekend use. It carries an economic impact.

Mr. Lehman explained the need to operate on Saturday and his efforts to keep it to a minimum. They try not to work on holidays. He attempts to do the best they can for the community and neighbors. They attempt to control the fugitive dust when blasting but it is harder to do during dry spells. The further into the rock that the blast occurs, the less dust is created. A third party does the blasting. Additional public comments

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were solicited but none was given.

Mr. Plemel explained his investigation of the site two years ago and the history of the conditions. Reseeding was an old condition that related to a portion of the operation and had not been changed for several years. Revegetation was not required last year. NDOT had placed the traffic counters. They were not the City's. The counters did not have anything to do with this application. He also felt that the traffic count was an averaged annual count rather than a single day's count.

Ms. Pruitt reviewed the following amendments: No. 6 - the words "during site operations" were deleted so that it now reads: "The permit holder shall ensure that water or other appropriate wetting agents are utilized on the stock piled material." No. 10 - "When operations are not ongoing, the site must be secured by the existing gate or boulders and signage on the perimeter at every 200 feet posted by the owner/operator and City Planning staff." No. 11 - "Operating hours are to be from 6 a.m. to 6 p.m. Monday through Friday and from 7 a.m. to 5 p.m. on Saturday. Operating on Sunday would be on an emergency basis only. Emergency basis means fire, flood, or other major event when the City needs materials for a crisis or emergency." No. 14 - Arrowhead was changed to Conestoga. No. 17 - added "by the owner, City Engineering and BLM" to the last sentence. As it was explained, Condition 19 is not needed. There is no waste development.

During discussion between the Commission and Mr. Bryan, he stipulated to commencing seeding this fall which Chairperson Peery indicated would replace Condition 19. Mr. Lani explained the need for rainfall to be successful and recommended the use of BLM's recommended fall seeding rather than a specific date. Mr. Lehman indicated January 1. Commissioner Mullet suggested December 21. Chairperson Peery indicated that he was "happy with that". Commissioner Mullet pointed out that some of Carson City's schools operate on a year-round schedule. He suggested that the discussions with the District occur before September 1. He also felt that the minimum allotment for the road reconstruction should be \$125,000. He asked that the formula used to establish the funding level be provided to the Commission. Mr. Sullivan stipulated for staff that Mr. Flansberg will review the Goni Road situation with the Regional Transportation Commission. The review will include the bicycle and pedestrian issues, etc. He urged the public to attend this meeting.

Mr. Givlin expressed his belief that a lot of thought had gone into how Mr. Flansberg had established the suggested \$100,000 amount for dedication for reconstruct of the roadway. He then described how a roadway deteriorates. Commissioner Mullet pointed out that the roadway shoulders are deteriorating in the industrial area. The center of the roadway is in better shape. This roadway does not have a curb to control the traffic flow. Chairperson Peery suggested that, if the funding is provided, it be placed in an interest bearing account which would generate additional funds. He then requested a motion and a second and indicated that Commission comments will then be accepted. (2-2074) Mr. Bryan indicated that Cinderlite agrees to the amendments.

Commissioner Vance moved to approve SUP-04-095, a Special Use Permit application from Mactec Engineering, the applicant, Golden Sierra Investment/BLM, the owners, to allow expansion of an extraction pit as proposed in the mining plan submitted with the application located at 6100 Goni Road, APNs 008-011-58,008-001-57 (008-011-57), 008-011-06, and 008-011-11, based on 11 findings and subject to the recommended conditions, as amended, of approval as contained in the staff report. Commissioner Sedway seconded the motion.

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Commissioner Kimbrough felt that the process had been a real education for Carson City. Cinderlite had been a willing partner, which he liked to see. There had been a lot of errors made by Carson City on the first review. This included the amount of money that was required and miscommunications about the slope and rehab. The applicant had been part of the education process as a willing partner. He liked to see that. This had cost the applicant a lot of money as a lot more studies were required and he had to catch up on the things that really needed to be done. He had not heard the applicant complain about these additional items. The community was present in full force the last time with a lot of negative comments. The current comments were more of a clarification nature or provided a better way to make the findings. This was an excellent public meeting. He liked the communication process as the community had pointed out what a great partner the firm is in the community. It was a great opportunity to work with a firm that is willing to work with the community to come up with some compromises which may have been expensive. He was not certain that everyone will be happy with the new policy to provide \$10,000 annually for the roadway mitigation due to feeling that the trucks could have provided some of the damage to it. For these reasons he could easily support the motion. He felt that the applicant and staff had done a great job on the report and that the public comments and their willingness to compromise made it one of the better contentious issues he had considered during his tenure on the board.

Commissioner Sedway also complimented the process. Last time it was more contentious. He believed that Cinderlite does a wonderful job there. The operation is built in a friction area as it is adjacent to a residential area. They have done everything possible and are truly understanding of their neighbors as indicated by the comments. The people in opposition had talked about things that were not as severe as they could/may have been in the past. They talked about traffic. Goni will continue to be a friction zone and he hoped that RTC sees the possibility and wisdom of putting a bike path there. The burden should not necessarily be placed entirely on Cinderlite. This is the type of an operation that the City needs and they fulfill a good function in the community. He was glad to see that it had been worked out this way.

Commissioner Reynolds indicated that he had been told that this meeting was run a lot better than the last one. They do want to "peer" a little bit more into the future. Having dealt with some of these things on RTC, he hoped that in five years the review will not have polarized factions and the same type of discussions as had occurred during prior meetings. Some of this could be addressed by having the City periodically find the time to touch bases with the residents. Four-and-a-half years from now is not the time to revisit how things are going. We have people in the City who are concerned with that. He then explained that he has a business on Conestoga. He felt that the area is living on borrowed time and that a serious accident involving a bicyclist or pedestrian will occur on Goni Road. Either RTC or P&RC needs to find a way to get people from the Goni residential area to the downtown area. This should occur sooner rather than later. He was unsure whether this should be Cinderlite's responsibility or the City's. It is a "thin" road. He was surprised that there have not been more accidents on it. He appreciated a five-year review rather than an annual or biennial review. It is tough having to factor in the financing, etc., if the conditions are revised annually. The conditions that were placed on the permit will help the community and the business plan ahead. There is a need for a better access to the residential area.

Commissioner Mullet indicated that he was just as concerned as the neighbors about the safety of the children on Goni. He hoped that the School District will work with the City staff and develop a nice plan such as one that will allow them to pick up the children going up one side and down the other side without making the children cross the road. He also echoed the need for a bicycle path as that has become a real recreational area.

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Whenever we see the large box store or industrial park that borders a residential use or any of the friction zones, the concerns are raised. During the next 18 months to two years they will be going through the Master Plan and a land use review. He had served on a committee two years ago that looked at the industrial areas and how they fit the community. They are an important part of the community. They bring in a lot of revenue. He questioned how to buffer them from the residential areas. In most cases, the industrial area, the mining operation, and the racetrack were there first. When the residential areas encroach on them as the land becomes scarcer and scarcer, they need to be buffered. How can we do that? The zone can't be heavy industrial. The buffer must be less noisy and less objectionable to the residential areas. Tonight's process shows that we can work together. It is a concern. This is the toughest thing that the Commission must do. We must listen to both sides and accommodate everyone. Thank you for the good operation and the input from the community. We don't usually get this kind of input. It was a very nice meeting.

Commissioner Vance explained his personal tour of the area. He noticed that Goni was narrow. It is probably a credit to safety awareness of Cinderlite's drivers that the accident that everyone is waiting to happen, has not happened sooner. That is the only hope for the immediate future. He did not believe that there is anyone any where that would disagree about the concept of a bicycle path.

Chairperson Peery expressed his feeling that it had been a fine example of how the community and industry can work together to find reasonable solutions to their concerns. He was very glad to see a proactive stance on both sides and a conciliatory approach, especially on the part of the applicant, in regard to making amends on seeding and dust mitigation. They are important concerns. He agreed with the people who had those concerns. Everyone should get a brass ring as it had been a good meeting with well-taken comments, arguments, and concerns. He appreciated the fact that both pro and con comments were provided and that both sides had illustrated where good things have occurred. He then called for a vote on the motion to approve the Special Use Permit with the amended conditions. The motion carried 6-0. Mr. Sullivan announced the appeal process.

OTHER MATTERS (2-2348) - Chairperson Peery asked Mr. Sullivan to provide the two new Commissioners with identification cards.

I. ACTION TO ADJOURN (2-2360) - Commissioner Sedway moved to adjourn. Commissioner Mullet seconded the motion. Motion carried 6-0. Chairperson Peery adjourned the meeting at 9:05 p.m.

The Minutes of the July 25, 2004, Carson City Planning Commission meeting

ARE SO APPROVED ON February 23, 2005.

/s/

John Peery, Chairperson