

CARSON CITY PLANNING COMMISSION

Minutes of the March 27, 2002, Meeting

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A regularly scheduled meeting of the Carson City Planning Commission was held on Wednesday, March 27, 2002, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 3:30 p.m.

**PRESENT:** Chairperson Allan Christianson, Vice Chairperson Richard Wipfli, and Commissioners Gayle Farley, John Peery, Wayne Pedlar, and Roger Sedway

**STAFF PRESENT:** Deputy District Attorney Melanie Bruketta, Senior Planners Skip Canfield and Lee Plemel, Recording Secretary Katherine McLaughlin, and Associate Planner Jennifer Pruitt (P.C. 3/27/02 Tape 1-0001)

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

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

Chairperson Christianson convened the meeting at 3:30 p.m. Roll call was taken. A quorum was present although Commissioner Farley had not yet arrived and Commissioner Mally was absent. Commissioner Sedway lead the Pledge of Allegiance.

**B. APPROVAL OF MINUTES FOR JANUARY 30 AND FEBRUARY 27, 2002 AND FOR FEBRUARY 27, 2002, GROWTH MANAGEMENT COMMISSION MEETINGS (1-0020) -**

Commissioner Peery moved to approve all of the Minutes. Commissioner Wipfli seconded the motion. Motion carried 5-0.

**C. PUBLIC COMMENTS (1-0028) -** None. (Commissioner Farley arrived during the request for public comments— 3:33 p.m. A quorum of the Commission was present although Commissioner Mally was absent.)

**D. MODIFICATIONS (1-0041) -** The applicant for Item F-2, a Change of Land Use, has agreed to a one month continuance. Item G-5, the Special Use Permit for portables at the Empire Elementary School, was continued for one month.

**E. DISCLOSURES (1-0055) -** Commissioner Wipfli indicated his intent to recuse himself from Item G-2 due to a conflict.

**F. CONSENT AGENDA (1-0064)**

**F-1. U-98/99-44 - DISCUSSION AND ACTION ON THE REVIEW OF A PREVIOUSLY APPROVED SPECIAL USE PERMIT APPLICATION FROM CHARLES E. BEDROSIAN**

**F-2. Z-1/02-4 - DISCUSSION AND ACTION ON A CHANGE OF LAND USE APPLICATION FROM PALMER AND LAUDER ENGINEERS**

**F-3. P-93/94-1 - DISCUSSION AND ACTION ON A REQUEST FROM SILVER OAK DEVELOPMENT COMPANY FOR A ONE YEAR EXTENSION TO A SUCCESSIVE FINAL MAP (PHASE 15)**

**F-4a. D-01/02-3 - DISCUSSION AND ACTION TO ACCEPT A DEDICATION OF RIGHT-OF-WAY FOR BUTTI WAY AND A PORTION OF AIRPORT ROAD**

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**F-4b. D-01/02-3 - DISCUSSION AND ACTION TO ACCEPT A DEDICATION OF SEWER, RECLAIMED WATER AND WATER EASEMENTS FOR 3770 BUTTI WAY**

**F-4c. D-01/02-3 - DISCUSSION AND ACTION TO ACCEPT A DEDICATION OF A SEWER AND DRAINAGE EASEMENT FOR 3770 BUTTI WAY**

**F-4d. D-01/02-3 - DISCUSSION AND ACTION TO ACCEPT A DEDICATION OF A DRAINAGE EASEMENT FOR 3770 BUTTI WAY**

**F-4e. D-01/02-3 - DISCUSSION AND ACTION TO ACCEPT A DEDICATION OF A PEDESTRIAN EASEMENT FOR 3770 BUTTI WAY**

**F-4f. D-01/02-3 - DISCUSSION AND ACTION TO ACCEPT A DEDICATION OF A SLOPE EASEMENT FOR BUTTI WAY**

**F-4g. D-01/02-3 - DISCUSSION AND ACTION TO ACCEPT A DEDICATION OF A SEWER AND DRAINAGE EASEMENT LOCATED AT THE NORTHWEST CORNER OF BUTTI WAY AND EAST FIFTH STREET** - Commissioner Wipfli moved to accept the Consent Agenda as read.

Commissioner Peery second the motion.. Motion carried 6-0.

**G PUBLIC HEARING (1-0084)**

**G-1. Z-01/02-5 - DISCUSSION AND ACTION ON A CHANGE OF LAND USE APPLICATION FROM CARSON CITY** - Associate Planner Jennifer Pruitt - Public comments were solicited but none given. Commissioner Pedlar moved to approve Z-01/02-5, a Change of Land Use request from Carson City, applicant representing Eva Lompa, trustee, to change the zoning designation from Public to Limited Industrial, APN 010-051-35, and Charles Meek Trust and CCM Corporation, property owners, to change the zoning designation from Public to Single Family One Acre, APNs 010-191-06 and 010-191-16, and recommend to the Board of Supervisors to approve the request based on the ability to make the findings contained in the staff report. Commissioner Peery seconded the motion. Motion carried 6-0.

**G-2. AB-01/02-6 - DISCUSSION AND ACTION ON A REQUEST FROM RICHARD WIPFLI TO ABANDON A PORTION OF RIGHT-OF-WAY (1-0156)** - Commissioner Richard Wipfli and Associate Planner Jennifer Pruitt - Commissioner Wipfli recused himself (3:40 p.m.), went to the podium and explained the reason for bringing this application back to the Commission. (A quorum was still present although Commissioner Mally was absent.) He suggested that, if the Commission had any questions, the item be delayed until Mrs. Wipfli or Mr. Kilty arrive. Chairperson Christianson ruled that there was no reason to delay the item as it is a bookkeeping error. Mr. Wipfli then left the room. Ms. Pruitt explained the noticing error and reiterated the reason for bringing the item back to the Commission. Public comments were solicited but none were given. Commissioner Peery moved to approve a motion to recommend that the Board of Supervisors approve application AB-01/02-6, an abandonment request from Richard Wipfli/Wipfli Family Trust and G. R. Kilty for a portion of East Spear Street and a portion of Anderson Street, approximately seven feet wide by 198 feet long, totaling 1,386 square feet, on property zoned General Office located adjacent to Assessor's Parcel 004-231-04 based on one finding and six areas of concern and subject to four conditions of approval contained in the staff report and with the understanding that any acknowledgements to the Commission/Board by the applicant may be considered as further stipulations or conditions of approval on this application. Commissioner Pedlar seconded the motion. Motion carried 5-0-1-1 with Commissioner Wipfli abstaining and Commissioner Mally absent.

**G-3.U-01/02-23 - DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM BARBARA LATHROP (1-0238)** - Senior Planner Skip Canfield - Commissioner Wipfli returned to

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the dias--3:45 p.m. (A quorum of the Commission was present although Commissioner Mally was absent.) The Applicant was not present. Public comments were solicited. None were given. Commissioner Farley moved to approve U-01/02-23, a Special Use Permit request from Barbara Lathrop, applicant, C&A Investments LLC, owner, to allow for pennants in excess of 30 consecutive days on Assessor's Parcel Number 008-382-12, property zoned General Industrial located at 4962 U.S. 50 East based on seven findings and subject to eight conditions of approval contained in the staff report and with the understanding that any acknowledgements to the Commission/Board by the applicant may be considered as further stipulations or conditions of approval on this application. Commissioner Wipfli seconded the motion. Motion carried 6-0.

**G-4. U-01/02-24 - DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM BILL HUTCHISON/PETSMART (1-0286)** - Senior Planner Skip Canfield, Bill Hutchison - Discussion between Mr. Canfield and the Commission indicated that this type of an operation is not occurring in any of the other pet stores in the community. Reno does have this type of an operation. There had been no comments from the adjacent stores regarding the proposal. The animals must be kept inside the building. Veterinary services will be provided. Boarding will not be allowed. Mr. Hutchison described the proposed service. Animals are not sold by the store but nonprofit and humane societies are allowed to use a 250 square foot area of the building to show and adopt their animals. This is provided as a community service. The history of the firm was described. The veterinary service is an accessory use and is less than 10 percent of the store or 4 percent of the overall income. They are an overall provider of animal products. It is a full service vet clinic for outpatient treatment and care. No long term boarding is allowed. They may keep an animal overnight for life safety reasons. There will not be any outdoor runs. They use stainless steel kennels and have licensed professionals. He had read the staff report and was agreeable to all of the conditions. Discussion between Mr. Hutchison and Mr. Canfield indicated leeway would be granted in getting the Notice of Decision signed and returned by the company office. Discussion explained the firm's business expectations for the area and the store's size and layout. Photographs of the store were given to the Commission. (None were given to the Clerk.) Public comments were solicited but none were given. Commissioner Pedlar moved to approve U-01/02-24, a Special Use Permit request from Bill Hutchison for Petsmart applicant, FADCO SPE LLC owner, to allow veterinary services on Assessor's Parcel Number 004-012-25, property zoned Retail Commercial located at 250 Fairview Drive, based on 7 findings and subject to 6 conditions of approval contained in the staff report and with the understanding that any acknowledgements to the Commission or Board by the applicant may be considered as further stipulations or conditions of approval on the application. Commissioner Wipfli seconded the motion. Motion carried 6-0. (The photos were given to Community Development staff.)

**G-5. U-01/02-25 - DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM MIKE MITCHELL (1-0456)** - Associate Planner Jennifer Pruitt - Commissioner Peery moved to continue G-5 to next month, Item U-01/02-25. Commissioner Wipfli seconded the motion. Motion carried 6-0.

**G-7. U-01/02-26 DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM MIKE MITCHELL (1-0478)** - Associate Planner Jennifer Pruitt, Senior Planner Skip Canfield, School District Director of Operations Mike Mitchell, Lavina Atkinson, Mrs. Hardy, Rex Harold - Photographs of the parcel were displayed. The original landscaping condition had been removed by the Board of Supervisors. Staff had received three phone calls on the item and a letter which questioned the lack of landscaping surrounding the portables. Staff had included the landscaping condition due to the feeling that it was required originally and the proposal to expand the number of portables. Chairperson Christianson explained his recollection of the Commission's action regarding the landscaping and questioned whether additional landscaping should be required

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as more portables are being installed.

Mr. Mitchell reviewed the history of the portables at the Mark Twain School. The School District does not like to use portables due to the impact they create on the neighborhood, however, they are required to provide the needed classrooms at that school. They understood the landscaping concerns, however, there are at least 50 other property owners adjacent to the portable and school. Placing trees at only one location would solve one property owners' concern but not the others. The District could not afford the precedent which would be established. The proposal is to place three more portables adjacent to the current one and three portables on the north side of the school. All of the portables will be as close to the building as is possible. There are approximately 40 portables at other schools sites in the community. Providing a landscaped barrier between those portables and the property line will create a continuous barrier around all of our buildings and have a negative impact on their budget. They were willing to do it if absolutely necessary but asked that, as the conditions were the same as the previous installation of portables, the requirement be deleted. His contact with the property owner indicated that none of the landscaping would be tall enough to block the 14 foot view of the portables. The property owner has done a wonderful job with landscaping on his/her property to break the view. Commissioner Farley suggested a mound be created and trees/landscaping planted on it. Mr. Mitchell agreed that this would reduce the visual impact, however, the precedent would be established and would create a fiscal impact on his budget as everyone will want/need the same treatment. There is 1,000 linear feet of abutting property owners on three sides of the school. Chairperson Christianson pointed out the impact the mounds would have on the amount of recreational area. Mr. Mitchell also pointed to the multi-purpose use agreement between the School and the City Parks which is an attempt to be a good neighbor by allowing the neighborhood to use the facility as well as provide a school. Mr. Canfield explained that the finding is required for the adjacent neighbors. It mitigates the impact and addresses Condition 2 on Page 4 by mitigating the detrimental impacts to the adjacent properties. They had not talked about the location or type of landscaping with Mr. Mitchell. There will be a definite visual impact and a partial noise impact to the neighbors. The condition will allow staff to work with Mr. Mitchell on a good neighborhood policy.

Mr. Mitchell then explained the current enrollment and the residential growth that is occurring in that vicinity. When Mark Twain reaches 115 percent of its student population, which may be in two to three years at the current growth rate, according to the master plan it will be put on year-round multi-track. The portables will be removed at that time. If the growth rate does not hold or the population fails to reach 115 percent, the portables will be permanent until the population drops. At that time they will be removed. It was felt that the six additional portables would take the student population to 115 percent. The District proposed to install two portables on the north side this summer and wait until the following year to install the remainder. He agreed that historically the portables become more or less permanent over time. Multi-track use also creates an impact on the neighborhood. Mr. Mitchell acknowledged that the landscaping cost for one individual would be minimal, however, the precedent would be established and require additional funding. He was unsure how much it would cost to do the entire property line. The landscaping would not reduce the noise level at five feet. Chairperson Christianson felt that the residents had been aware of the fact that the school was there when they moved in and that it is too late at this time to mitigate the impact.

Commissioner Pedlar felt that it is typically perceived that elementary neighborhood schools are desirable rather than busing students to other areas. Adding portable classrooms allows the neighborhood children to go to school in their area and adds to the economic value of the neighborhood. Mr. Canfield explained that 2,000 feet of solid screening was not being required. He reiterated the desire to work with the District. The portables are the issue.

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Commissioner Farley questioned how this issue is handled in other areas and asked staff to research this issue. Mr. Canfield explained his personal observation that in Phoenix a school which had portables also had landscaping around it. Mr. Mitchell explained that his landscaping is normally minimal and found toward the front of the school. He pointed out the security issues associated with large mature landscaping. Numerous telephone calls are received from adjacent property owners about the after school activities found on the school grounds. For this reason his staff attempts to keep the landscaping thinned out as much as possible. Landscaping is not an easily maintained enhancement. This seems to go against good sense for having landscaping even though, from a good neighbor stand point, it would look wonderful.

Clarification by Mr. Mitchell indicated that he had meet with Ms. Atkinson regarding the original portables. He had not met with her regarding this application. We have employees that are concerned with the view who live in the area. They have discussed the issue with him. They also understand the need for additional classrooms. Nothing formal has been received about the issue. He also acknowledged that Ms. Atkinson was there before the school was constructed. The other two property lines were part of the subdivision in which the school had been part of the land use plan.

(1-0840) Public comments were solicited. Ms. Atkinson explained the location of her property. She had been there before both the Northridge subdivision and the school. She had installed a 12 foot high barrier of evergreens in order to get tenants to rent her house. The tenants have complained about the noise. She needed a noise barrier and not a visual barrier. She wanted large evergreen pines and not shrubs. She acknowledged that the home is currently and has been rented for 18 months. It is never vacant. Discussion also indicated that she was successful in being able to rent the house at its expected rate. She did, however, feel that the portables would make it look like a ghetto and increase the noise and dirt on the Hamilton side of the school.

Additional public comments were solicited. Mrs. Hardy explained the three portables on the south side would be on her side of the school. She objected to that location and suggested that they fill in the school building's alcoves rather than use portables. She also questioned where the teachers would park. They are already parking on the street and impacting the neighborhood. Mr. Mitchell explained the desire to build rather than use portables. It is not cheaper to use portables on a short term basis. A bond is needed for that type of an improvement. Aesthetically it is better to build. He agreed to attempt to get a bond for permanent structures, however, the first two portables on the north side are needed now. The teachers will have to park on the streets. Parking problems are encountered when the parents visit the school. Mrs. Hardy explained her personal check of the parking lot which indicates a need for additional parking spaces. She also felt that the portables would be an aesthetic mess.

Mr. Harold explained that his residence is adjacent to Ms. Atkinson. The current portable unit is behind his property. They have a huge "canister" on a power pole to provide the portable with electricity. He had not received any notice about the original portable. He was displeased with it coming in. It is an attractive school. He acknowledged that he was aware of the school when he purchased his home in 1997. In fact, he had considered it a bonus to the property value as it was an attractive school. The portable unit is showing wear and tear and more crime occurs there than before. His kitchen, dining area and living room open onto the school. He had called the school district several times when criminal acts occurred. He had done his part to be a good neighbor but the School District had failed to do its part by putting in the portable unit. Six more units would negatively impact

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the visual aesthetics and the City's open space program. He enjoyed hearing/seeing the children playing. He urged the Commission to retain the open space. His experience as a forester was described. He felt that there should be more trees and would like a barrier on the other side of the power company easement. The trees were on his playground when he went to school. They are needed at this school also. Mark Twain would better off with more trees as they provide educational opportunities and value for the students. He volunteered to help with such a program. He hoped that another option could be found to the portables. If the portables are approved, he hoped that they would be removed quickly as they are not attractive and devalue the community.

(1-1048) Additional public comments were solicited but none given. Mr. Mitchell had not been aware of the overhead powerline to the modular unit. The power was supposed to have been underground in accordance with the existing conditions. He committed to having them underground in the future and would correct this situation.

Discussion explained that the school has a six week summer program. The multi-track program will reduce the student population to 95 percent instead of the 115 percent required for the multi-track program. The ideal situation is to construct another building, however, bonds for new buildings have been denied by the electorate. During the last two years the student population appeared to be dropping in the elementary schools but increasing at the middle and high school levels. This year the elementary student enrollment increased by 3.9 percent. The City's residential growth has historically shown that young families are forced to look for residences in the surrounding areas as the price for entry level homes rises. The portables are a short term solution. As the community builds out it was felt that the student population may stabilize at 11 to 12,000. This will require one more elementary school. The District cannot rezoning and move students as it is currently operating at 98 percent occupancy, which is considered top efficiency.

Commissioner Wipfli complimented Mr. Mitchell on his candid comments. His personal experience as a youth and having a school near his home was explained. He felt that neighborhood schools are an asset. The trees at that school never seemed to grow taller than two feet. The few tall trees in one corner had created a problem. His normal desire is to have landscaping. Due to the temporary nature of the portables and the fluid nature of the enrollment, he did not wish to see the expenditure. He recommended removing Condition 8 for those reasons. He also thanked Mr. Mitchell for committing to underground the utilities. He did not feel that the electorate would support a bond issue for a new school at this time.

Commissioner Pedlar supported Commissioner Wipfli's comments. Homeowners who have moved in after the school was there could mitigate the impact with landscaping on their lots. The landscaping on the school grounds would require using the tax money. Bond issues are not easy to get passed the electorate. The District is taking prudent steps to meet the need with the funds it has. Landscaping cost money to install and maintain. There are valid security issues involved. He concurred with the removal of Condition 8 as it is a public entity.

Commissioner Peery support both Commissioners Wipfli and Pedlar's recommendation that Condition 8 be removed as it is a public use. It will not serve the public interest to require the trees.

Mr. Mitchell agreed to stipulate that he would have the utilities to the existing portable located underground.

Commissioner Farley stated her empathy for the home owners, however, it is not possible to obtain funding for new schools. The children need a place to learn. She applauded Mr. Mitchell for his willingness to consider both sides of the issue.

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Commissioner Sedway felt that the additional trees were not warranted for noise control. He suggested that landscaping/trees be placed against the units to improve the aesthetic value. He also suggested consideration be given to making the portables look better if they are not in the best condition. Noise by a few more portable units will not create that big of an impact.

Commissioner Pedlar moved to approve U-01/02-26, a Special Use Permit request from Mike Mitchell on behalf of the Carson City School District to allow six portable classroom buildings at Mark Twain Elementary School, APN 002-101-46, based on seven findings and subject to eight conditions of approval contained in the staff report, deleting Condition No. 8, and with the understanding that any acknowledgements to the Commission/Board by the applicant may be considered as further stipulations or conditions of approval on this application. Commissioner Peery seconded the motion. Motion carried 6-0.

**G-6. U-01/02-27 - DISCUSSION AND ACTION ON A SPECIAL USE PERMIT APPLICATION FROM CARRIE HENSON (1-1278)** - Associate Planner Jennifer Pruitt, Senior Planner Skip Canfield, Deputy District Attorney Melanie Bruketta, Health Director Daren Winkelman, Senior Planner John Givlin, Carrie Henson, Ron Gutzman, Kim Brown, James Michaelsen, Sherrie Erwin, Kevin Bailey, Sherrie Irwin, Sandy Bailey - The Code does not allow child care facilities to be within 500 feet of each other unless separated by an arterial street. A Special Use Permit for a childcare facility was issued in 1991 to the residence next door. At that time the permit was issued to the property and not the occupant. In order to remove the permit the childcare facility must be closed for one year. Staff supported the new location. The Health Department will discuss the issues related to the current location. Discussion pointed out that the permit ten years ago was considered a marketable commodity. Under today's rules the permit is issued to the individual. The 1991 issuance did not include a sunset clause. It is possible for the property owner to rent or sell the building to someone else who will want to continue the child care service. Clarification also explained the current requirement that the house could be used as a child care facility as an accessory use to its primary use as a residence. Ms. Bruketta explained that the Commission could terminate the special use permit if there are violations to the conditions which justify doing so. Staff had been working with Ms. Henson for some time in an effort to mitigate the concerns, however, the proximity issue remains. Chairperson Christianson expressed his hope that City staff would be able to find a way to resolve the issue. Ms. Bruketta reiterated the need to close the current permit as the Code will not allow another child care facility within 500 feet. The violations may be considered by the Commission if they relate to the permit. Commission comments suggested that the application should be continued pending the outcome of those issues. Mr. Canfield explained that the special use permit conditions would be reviewed and a determination made regarding whether the Commission should consider any violations. He also felt that the application should not be continued based on the another permit's standing.

Mr. Winkelman explained that his Department licenses child care facilities. The biggest concern with the current site relate to the present water system, which is a well that has not been tested for some time, and the potable water. The current operator uses bottled water. The State licensing requirements for the well were noted. In order for a daycare operation to continue to use the facility, the well will have to meet the State and local water requirements regardless of whom the operator is. Mr. Winkelman was not sure whether the well would meet the State standards. The 1991 conditions have not been reviewed. His staff was not aware of the fact that the facility was served by a private well. The current operator knows that she must use bottled water. His Department cannot continue to allow the facility to operate as it is. If Ms. Henson moves next door, the business license for the current facility could not be renewed unless the water issue is resolved. Mr. Givlin explained that the City water connection would be based on a usage formula. The connection for a residence costs \$3200. The City waterline is in the

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neighborhood. Mr. Winkelman was not sure of the number that caused the well to fall under the State designation as a public water system. The well would serve more than 25 individuals in a 60 day period which is called a Nontransient public water system. The break point which would not require testing would be same as that required for a City license—four or more. As a licensed child care facility, the City Health Department will require testing of the well regardless of the State licensing requirement. The Health Department uses the State standards in determining if the well can be used. The well is the major violation concern. The remaining violations were considered minor, such as the State licensing requirement. Its deadline could be extended if progress on the application is occurring. Clarification indicated that the permit could be pulled if a violation is not corrected. The business license and special use permit could then be issued to the adjacent property. Environmental Health Specialist Dustin Boothe has notified the property owner about the violation(s). Mr. Canfield indicated that staff could address the issues and bring the application back to the Commission in two months which should provide adequate time to comply with the noticing requirements. Discussion noted the mandatory timeframes and questioned whether there is another manner in which to handle the situation. Mr. Canfield indicated that a Code amendment could be used but that staff had not felt that one would be appropriate. There is not a lot of leeway available for addressing the situation. It was felt that as the formal proceedings had commenced, the facility should be allowed to continue to operate. The applicant must agree to a continuance in order to proceed.

Ms. Henson explained that she had canvassed her neighbors and obtained signed petitions supporting her facility. She leases the property and had attempted to get out of the lease and find another location. Unfortunately commercially zoned property does not comply with the health regulations. The current location is not safe for the children. She had been serving bottled water for three years. This was when she learned that she was on a well. The State is also waiting for her to move. She felt that she would be out of business if forced to wait until something is done about the special use permit. Her lease expires on October 4<sup>th</sup>. She was willing to asked for a continuance but did not want to have the matter continued indefinitely. She did not feel that the landlord would fix the problems. She displayed a portfolio detailing her story. She understood the ordinance and the desire to not have child care facilities abutting each other. The current location on Roop Street does not have the residential character normally found in residential areas. She proposed to use her home for a child care facility. She felt certain that she could handle the competition from a child care facility next door. The services she offered were described. The landlord problem is not the children's concern. Mr. Canfield indicated that the application would be brought back in April. Discussion between the Commission and Ms. Henson indicated that her dealings with her landlord regarding the lease had been verbal. The lease is the only document in writing. She had obtained an attorney. She had discussed the potential of having two child care facilities with her neighbors. They had felt that the Roop Street traffic would be more detrimental to their ability to sell their residences than having two child care facilities. Comments pointed out that Roop Street is in transition and has lots of commercial property in her vicinity. It is a unique situation which may not be found elsewhere in the community. Her portfolio was given to Mr. Canfield and the Commission.

Public comments were solicited. Mr. Gutzman indicated that he and his wife own the property. They obtained the Special Use Permit 11 years ago. They had originally operated it for 5 years and then six months between other operators. He asked that the 500 foot minimum distance between the child care facilities be maintained. The work he had been required to do on the building to obtain the Special Use Permit was described. It had taken a large investment to make those improvements. He felt that everyone had been aware of the well. It was tested at that time. He felt that the Health Department had been testing the well regularly. Ms. Henson had purportedly offered to purchase the property, however, they could not reach a settlement on the terms. He had purportedly had the well tested when he had the property appraised. This test was not in writing. Until the well tests bad, he intended to

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continue to use it. He felt that the failure to have the well tested was the reason it was assumed to be bad. Mr. Winkelman explained that the Health Department had just learned about the well and is just now starting the process to get the well tested. Chairperson Christianson pointed out that if the well is good, the permit cannot be pulled. A continuance should be requested so that the well can be tested. Ms. Bruketta felt that this was a reasonable request as they may not have to connect to the City waterline if the well tests are okay. Mr. Winkelman agreed that they would not have to connect to the City service if all of the State standards for the well are met.

Mr. Gutzman explained that the first time he had been aware of a concern regarding the well was when he talked with Ms. Pruitt about the notice he had received regarding the application for a Special Use Permit. He opposed the request as it jeopardizes his place. His lease had been prepared by an attorney. He purportedly is not responsible for painting it. He is responsible for replacing the boards. Ms. Henson is responsible for making sure that the well is safe and that all of the necessary things are done to keep the well going. Ms. Henson had allegedly never informed him about any problems with the Health Department. He would have a definite problem if the City pulls his Special Use Permit. He did not like the way things had happened. The Commission should only consider whether her application for a Special Use Permit should be approved. If the application is continued and additional information is requested, he was willing to provide it including a copy of the lease, the communications that they have had, etc. He opposed having the Special Use Permit be the property of the day care operator due to the cost he had incurred obtaining it. Chairperson Christianson explained the Commission had not known that the Gutzmans had been the original applicants for the Special Use Permit. Mr. Gutzman was not sure whether he had all of the paperwork related to the requirements he had to fulfill when they first obtained the Special Use Permit. The Building Department had required a roof. The Building Department and Planning Department, together, had required the parking lot for off-street parking. A fence was also erected. He would attempt to find the paperwork. Chairperson Christianson asked him to give staff a copy of the lease. The requirement that she be responsible for the well raised questions regarding the reasons the well had not been tested. Commissioner Farley questioned whether Ms. Henson could have the water tested as she does not own the property. Mr. Winkelman explained that they see lots of bottled water in child care facilities. They did not have anything in their records to indicate that the building was being served by a well. It was assumed that Ms. Henson was on City water as the location is within the City limits.

Discussion indicated that Mr. Gutzman had received a letter from Ms. Henson's attorney. His attorney is preparing a response. He had not been aware of any problems with the furnace. He agreed that it is his responsibility to fix it. Commissioner Pedlar suggested that a copy of his response be provided to staff. Mr. Gutzman's attorney was concerned about the well and the water under the house. Mr. Gutzman felt that the water under the house had been caused by over watering the lawn or from the broken pipe which he had a plumber fix. His attorney has purported prepared a letter regarding observations that he had made two years ago. The fence was repaired in January. There may be some additional fencing problems. He agreed to fix them. Ms. Henson had called on a regular basis to complain about the siding. She had painted some of the building. It is a commercial lease and if she refuses to paint, the Health Department will not allow the children to use the area. He had been aware of the plumbing problems and had allegedly hired someone to fix them. He had not been aware of there being water under the house. (Commissioner Wipfli stepped from the room at 5:37 p.m. A quorum of the Board was still present.) Mr. Gutzman indicated that the well became a problem when he received the note from the Health Department. The Commission's packet includes highlighted information on the State requirements. He had received the same information in the last seven days. He felt that the well was an issue as the City wants to get rid of them. It has good water. He was not sure whether it would be cheaper to have a well than to be on City water. The house has carpeting. The 1995 Health Department report indicates that some of the carpet strings had been pulled. He felt

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that this could be repaired with duct tape. The lease requires her to fix the carpet. (Commissioner Wipfli returned at 5:30 p.m. A quorum of the Commission was present although Commissioner Mally was absent.) The lease had been renewed several times. The items which are being discussed are included in it.

Ms. Bruketta pointed out that the applicant could purchase a residence across the street and the Commission could approve the Special Use Permit. The Commission may wish to reconsider the ordinance and revise it to allow an individual to be located on the same side of the street. Chairperson Christianson felt that the ordinance had been restricted to keep from having child care facilities within 500 feet of each other unless they were separated by an arterial. Ms. Bruketta felt that this problem would not be found in a typical residential neighborhood. Examples of the Commission's concern with having two child care facilities on the same street was cited to illustrate the reasons the Code had been drafted so tightly. Mr. Canfield felt that Roop Street is considered a collector rather than an arterial. He agreed that the ordinance should be reconsidered.

Mr. Gutzman reiterated his request that the Commission deny the application based on the 500 foot separation requirement. Discussion explained the time the Gutzmans had operated the facility and when Ms. Henson had taken it over. Commissioner Farley explained the Assessor's records which she had which she felt indicated that Ms. Henson's operation had been successful. She also described the Health Department's letter about the plumbing problem and the time it had taken for Mr. Gutzman to repair it. Mr. Gutzman had felt that it was a small leak under the hot water heater. It could be cleaned up once a day without any problems. It had been fixed temporarily. The permanent fix had not held. It has since been fixed permanently. Time is required to fix things.

(1-2467) Public comments were solicited. Ms. Brown explained that her children attend the child care facility. It is difficult to listen to these comments. (Commissioner Farley stepped from the room at 5:44 p.m. A quorum was still present.) She felt that the Commission should be able to work through the ordinance and resolve the problem. The importance of having her children cared for in a safe and loving environment was stressed. There are not enough day care facilities in the community. She urged the Commission not to deprive Ms. Henson of the ability to relocate next door.

James Michaelsen indicated that he has two children who attend the day care facility. He felt that the solution should be that, since Mr. Gutzman does not want to be in the child care business, he should get out of it and allow Ms. Henson to operate. Services provided by Ms. Henson and his efforts to check out the child care centers were described. (Commissioner Farley returned at 5:45 p.m. A quorum was present although Commissioner Mally was absent.) He felt that he would relocate to whatever facility Ms. Henson finds. It may be difficult for some people to relocate due to transportation problems. He felt that Ms. Henson had repeatedly talked to Mr. Gutzman without success. He found it peculiar that Ms. Henson should be responsible for the water supply. This may be a misunderstanding. If the plumbing issues cannot be fixed, the consideration should be one of whether a day care operation should be allowed in the building. This would allow Ms. Henson to move next door.

Ms. Erwin explained her knowledge about the previous operator and for selecting Ms. Henson's facility.

Mr. Bailey explained his belief that Ms. Henson is a responsible child care provider and for using her facility even though he is a Douglas County resident. His experience with Ms. Henson included her having cared for his nine year old daughter until she was five years old. The parents love for Ms. Henson and her staff was pointed out. He urged the Commission to do whatever possible to allow her to remain in operation. Chairperson Christianson pointed out that there is a lease which will be reviewed. It has been indicated that there may be a problem with

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the well, but until it has been checked out no one is sure that there is a problem. He also indicated that he would have to ask Ms. Henson why she started using bottled water and why she had not informed the Health Department about her concern with the well. The real problem is between the lessee and the lessor which the Commission had no control over. If these issues can be resolved, Ms. Henson may be better off remaining where she is.

Ms. Bailey described the reasons they took their son to Ms. Henson's facility and her feeling that the children are loved and treated equally. She wished to keep her as a child care provider. Public testimony was then closed.

Ms. Henson explained that this was the reason she had signed the lease six times and could not get out of it. She had been advised by her attorney that she is not responsible for the well. The State is mandating it and is purportedly going after the property owner. When the ground gave out in the children's play area three years ago, she discovered the well. She acknowledged that she had made a bad business choice. They are using bottled water and the children are playing in her yard next door. A plumber had allegedly told her that the pipe to the well was cracked. Until that time she had not known that the building was on a well. She decided at that time to begin using bottled water. She did not feel that a rental should be on a well. The Health Department was not involved until recently. The exterior walls have mold in them and are disintegrating. She had painted the front of the building. The back siding is wood and rotten. She would not paint it. Mr. Gutzman has known about it for years. He had claimed that she was responsible for it. Her attorney has advised her that she is not responsible for the walls, electrical, plumbing and the well. She did not know if the well had ever been tested or who had tested it.

Mr. Winkelman explained that his Department does not have any record of the well having been tested except for one test approximately two years ago. It should have been tested more than that and specifically in 1991. The test two years ago was only for chloroform. Ms. Henson indicated that she had that test performed. Discussion explained the reasons the Health Department had notified Ms. Henson instead of Mr. Gutzman. Commissioner Sedway pointed out that the Planning Commission only has purview over the Special Use Permit while the Health Department is the licensing agency for the child care facilities. Discussion also indicated that the Commission does not have a role in the lease issues. If there are violations of both the Special Use Permit conditions and the Health Department requirements for the Business License, both the property owner and the business owner should be notified. Staff was to check the conditions of approval for the Special Use Permit to verify if there are violations. Ms. Henson advised the Commission that it would cost at least \$7500 to test the well. Commissioner Sedway pointed out that the conditions of approval have not been brought to the Commission, therefore, a decision could not be made regarding them today. The business license and Special Use Permits are separate issues. Mr. Winkelman pointed out that the water issue must be addressed. Ms. Henson's moving and Special Use Permit issues are not part of the well issue. Discussion pointed out that as long as the well serves a private residence it would not have to be tested. Due to the 500 foot restriction, the Commission could not approve the application this evening. Ms. Henson felt that this would force her to close. Although she had requested the repairs for years, this afternoon was the first time that she had heard that they would be made.

Commissioner Pedlar pointed out that the applicant should request a continuance to allow the items to be sorted out. His support for a day care center was indicated, however, the Commission must abide by the Code. Mr. Canfield explained that the five standard conditions require all on and off site improvements to meet the City standards. He will bring the Special Use Permit back. If it is up to the Code requirements, then the Commission will have to deny the application. Chairperson Christianson pointed out that the cost of the well test may make the decision regarding the building's use as a child care facility. Mr. Canfield agreed that this issue should also

be considered.

Commissioner Wipfli agreed that the status of the house should be determined. He also pointed out the uniqueness of Roop street. It no longer is a residential street. It is more of an artery and is going commercial. It may be that the Commission can revise the Code to fit the conditions as Roop is an area in transition. He requested staff including the District Attorney's office to analyze this potential. There is time to consider all of the issues as the lease ends in October. Chairperson Christianson felt that the discussion had allowed some definitions to occur between Ms. Henson and Mr. Gutzman which could address some of the problems. Ms. Henson explained that she would work with the Commission's direction so long as the children are safe. Ms. Henson then requested a continuance to next month's meeting.

Commissioner Peery pointed out that the Health Department had sent two notices on the deficiencies in this home. This contracts the timeframe for doing something for the safety of the children.

Commissioner Pedlar moved to continue Item U-01/02-27 to the April Planning Commission meeting. Commissioner Peery second the motion. Motion carried 6-0. Chairperson Christianson urged all parties to do their work and thanked all of the participants/interested parties for coming.

BREAK: A recess was declared at 6:12 p.m. A quorum of the Commission was present when Chairperson Christianson reconvened the meeting at 6:20 p.m. although Commissioner Farley did not return until 6:22 p.m. and Commissioner Mally was absent.

**G-8a. U-96/97-5 - DISCUSSION AND ACTION ON THE REVIEW OF A PREVIOUSLY APPROVED SPECIAL USE PERMIT APPLICATION FROM BRIAN SMITH; AND, G-8b. v-96/97-4 - DISCUSSION AND ACTION ON THE REVIEW OF A PREVIOUSLY APPROVED VARIANCE FROM BRIAN SMITH (1-3182)** - Associate Planner Jennifer Pruitt, Resource Concepts Environmental Consultant Robin Eppard, Brian Smith - A proposal was developed to use the portions of the parking lot adjacent to Caroline and Carson Streets that are free from contamination for permanent landscaping. City Arborist Molly Sennett will assist in developing the landscaping plan. It was felt that the proposal was both reasonable and doable. Discussion explained the requirement that the plants be in the ground and not in planters. Both Commissioners Sedway and Wipfli felt that the planters should be used as the contamination will kill any landscaping. Both pointed out that the landscaping is only temporary until the Nugget decides to do something else with the lot. Ms. Pruitt felt that the proposed solution was feasible and supported by the applicant. To allow permanent use of the planters would establish a precedent that would become the standard for the community. Commissioner Wipfli pointed out the uniqueness of this site which he did not feel would be found at other sites. Chairperson Christianson questioned the status of the final plan for the site and the underground flume and how the contamination is to be mitigated.

Ms. Eppard explained a detailed study of the site that had confirmed the original contamination area. The proposal is to plant trees along the Carson and Caroline Streets where there is no contamination. She also described the problems encountered with the above ground planters. They wish to replace the trees in the planters with shrubs. They will be located in areas where the trees cannot be planted. This will also provide the opportunity to install an irrigation system and reduce the maintenance requirements. The use of the area as a parking lot will be continued as it does not require mitigation of the contamination. Justification for feeling that the contamination would not worsen or spread was explained which included an explanation of the testing and mitigation efforts

already undertaken. They supported the compromise and proposed plan. She recommended closure as there is no risk to humans based on the current use. If and when they change the use, the Nugget will have to mitigate the remaining contamination problems.

Commissioner Pedlar explained his contamination experience with a New Jersey site. He felt the request was the standard practice for a closure. The proposal appeared to do something where possible and the remainder above ground in the areas that are contaminated and lethal to the plants. Ms. Eppard agreed and added that they would change the trees in the planters for shrubs and place them in areas where trees cannot be planted. Ms. Pruitt supported her request and indicated that they would work with Arborist Molly Sennett.

Mr. Smith indicated the proposal is a temporary solution for the foreseeable future. Another building is not desired at this time.

(2-0001) Public comments were solicited but none given. Commissioner Pedlar moved to approve Special Use Permit U-96/97-5 allowing off street parking within 300 feet of property zoned Downtown Commercial and approve a variance, V-96/97-4, to allow a variance of landscaping requirements and review of technical report on property zoned Downtown Commercial located at 617 North Carson Street, APN 004-263-01, subject to seven conditions of approval contained in the staff report and with the understanding that any acknowledgements to the Commission/Board by the applicant may be considered as further stipulations or conditions of approval on this application. Commissioner Sedway seconded the motion. Motion carried 6-0. Commissioner Wipfli left the meeting—6:37 p.m. (A quorum was still present although Commissioner Mally was also absent.)

**G-9. M-01/02-17 - DISCUSSION AND ACTION ON DIRECTION OF STAFF REGARDING APPOINTMENT OF A HEARING EXAMINER TO FACILITATE ADMINISTRATIVE PERMITS PURSUANT TO CCMC 18.02.052 AND 18.02.110 (2-0028) - Senior Planner Skip Canfield, Deputy District Attorney Melanie Bruketta - Ms. Bruketta opined that staff may have a conflict if they are the Hearing examiner as the Code indicates that compensation is not allowed. The Statute allows the examiner to be compensated. Ms. Bruketta also felt that the Statute had not contemplated having City employees serve as the examiner. The Code allows the applicants to appeal to the Commission at no fee. Ms. Bruketta felt that the process may place the applicant at a distinct disadvantage. Commissioner Peery felt that it was to have been a voluntary post and that the Board was to have appointed the examiner(s). The hearing was to be conducted in the same fashion as the Commission's meetings. The Hearing Examiner is an intermediary position between staff and the Commission. Commissioner Pedlar pointed out the noticing requirements and that any opposition would require the application to be automatically presented to the Commission rather than the Hearing Examiner. Reasons for establishing the Hearing Examiner process was explained. Mr. Canfield explained that Rob Joiner is serving as the Hearing Examiner for the Downtown Design Review. Research of the processes used by the surrounding Counties indicates that they have had no problems with this process. Additional reasons for establishing the process were provided. Commissioner Sedway felt that the Board should make the final determination on this process. The suggested Hearings Examiners were to be Walter Sullivan, Skip Canfield, and Lee Plemel. Mr. Canfield suggested that Ms. Pruitt be added to the list if she achieves the AICP certification. Commissioner Pedlar added Rob Joiner to the list of examiners. **Commissioner Sedway moved to recommend to the Board of Supervisors appointment of Hearing Examiners to review Administrative Permits; the Hearing Examiners shall be those Planning and Community Development personnel with American Institute of Certified Planners certification and any other persons from outside Planning and Community Development that the Board of Supervisors deem suitable pursuant to the qualifications delineated in NRS 278.262 and 278.263.****

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**Commissioner Pedlar seconded the motion.** Chairperson Christianson indicated that this process was to include free appeals. Discussion indicated that the Commission's findings should be included in the record. Discussion between the Commission and Ms. Bruketta indicated that the Board of Supervisors should be making the appointments. The Commission's action would merely direct staff on how to proceed. Commissioner Pedlar indicated that, based on the wording of the Code, the fact that only uncontested minor deviations will be reviewed by the Hearings Examiner, and the right of review by the Planning Commission at no cost, he did not have a problem with having the staff serving in this position. Commissioner Peery did not wish to impute staff in any manner even though they would do it on a voluntary basis. He was not comfortable with their performing Hearing Examiner's duties. He could not vote for the motion. Chairperson Christianson supported having the Board of Supervisors make the appointments as it may also want to have other individuals besides AICP people do it. The process will make it easier for individuals to obtain minor variances faster than the current process. Commissioner Farley did not have a problem with having staff be the Hearing Examiner as he/she needs to know what we are doing, the vision we have for the community and its future, and that they are tuned into that. Staff's involvement with and understanding of that vision with their education will be helpful in carrying out the duties of a Hearings Examiner. Commissioner Sedway did not have a problem with staff serving as the Hearings Examiner as long as they understand that the burden will be on the applicant to go to the neighbors and make sure that everyone is notified. If something is passed that a neighbor did not think was correct, he/she has the ability to question the result without having to pay a fee. Unless the District Attorney has strong reasons not to do it, he would support the motion. **The motion to approve the staff recommendation with the addition of Rob Joiner as another Hearings Examiner was voted and carried 4-1-0-2 with Commissioner Peery voting Naye and Commissioners Mally and Wipfli absent.**

**G-10. DISCUSSION AND STATUS REPORT ON THE PLANNING COMMISSION ITEM A-00/01-4(a), AN ORDINANCE AMENDING CCMC 18.04 (2-0238)** - Senior Planner Skip Canfield, Robert Johns, Tom Quigley - Mr. Canfield thanked Mr. Johns and Mr. Quigley for waiting so long for this item and explained the issues raised at the Board meeting indicating the need for additional meetings with the public. Staff had contacted as many individuals as possible after that meeting. The special meeting was held that focused mainly on the Pinion Hills and Deer Run Road area. Approximately 60 people attended. There was a great deal of misinformation and confusion about the proposal to locate the fairgrounds next the Ambrose Nature area. As a result of the discussion staff agreed that the publicly zoned lands east of the River should be excluded from the zone change until clarification is provided regarding the proposal to locate the fairgrounds next the Ambrose Nature area. A revised ordinance on the public zoning will be taken to the Board on April 18 without the land east of the River and south of Deer Run Road. The land east of the River will remain zoned as Conservation Reserve. It was felt that a news article had incorrectly linked the proposed zone change to the relocation of the fairgrounds. This area will be included in the open space ordinance staff is now working on. Discussion explained the location of the Ambrose Nature Area.

Mr. Johns explained his residence in the Pinion Hills. The concern was with zoning the area Public Regional from Conservation Reserve. As Mr. Guzman is working on the Open Space ordinance, its zoning should be held until he finishes it before being rezoned. This will allow the area to remain open space and address the fairgrounds concept. He also felt that the entire area had not been notified about the proposed zone change even though three mailings had been made. His friends who live in other areas of the City remember receiving the notices. During discussions with Community Development Director Sullivan, he had indicated that the property Open Space had acquired from Al Bernard should also be designated as Open Space and not Public. He also suggested that the Moffett area be designated as Open Space and not Public Regional. The Open Space designation

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would reduce the cost of the land, such as that being acquired from Dwight Millard for C Hill. Chairperson Christianson explained that that area is owned by BLM and that the Commission could not address it this evening.

Mr. Canfield explained that individuals had been confused about the concept and believed that private lands would be rezoned Public Regional which would allow uses such as a private zoo. The proposal only addresses City and BLM lands. He explained that although the BLM property is designated as Public Regional, it will also have BLM's designation of open space. This will not allow the conditional uses to occur. A zoning map is being developed. Uses allowed in Mills Park may make sense while the same use should not be allowed in the Ambrose Nature area. The intended use varies according to the location of the site.

Tom Quigley explained the feeling that things were occurring too quickly and the need to slow things down. As the BLM property is zoned open space, there should be an open space zoning map. He urged the Commission to development one rather than make it Public with various uses. That process provides too much opportunity for the area to be made into something else. Chairperson Christianson explained the attempt was to establish the type of uses which could be allowed. This would tell the adjacent property owners what would happen or could happen on the publicly owned sites. Mr. Quigley reiterated that there had been a lack of information regarding the scope of the transition created by the zoning of the CR zone. It had not been mentioned in any documents. He displayed a petition for the Board of Supervisors asking that the item not be considered on April 4<sup>th</sup> and that it be submitted to the Carson River Advisory Committee for its master plan.

Chairperson Christianson expressed his desire to see Fuji Park and the Fairgrounds located in a different area. This item is not agenda for discussion today. As this is a status report, no formal action was required or taken.

**H. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (NON-ACTION ITEMS)**

**1. STAFF BRIEFING ON THE STATUS OF COMMISSION RECOMMENDATIONS TO THE BOARD OF SUPERVISORS AND CORRESPONDENCE TO THE COMMISSION (2-0478)** - Discussion explained Community Development Director Walter Sullivan's absence and indicated that he was recovering. Ms. Bruketta explained that Deputy District Attorney Neil Rombardo is leaving the District Attorney's office and returning to Southern California. A new Deputy District Attorney will be attending next month's meeting. Chairperson Christianson congratulated Mr. Rombardo on his job change and wished him success in this venture. He also thanked Ms. Bruketta for attending the meeting.

**2. FUTURE COMMISSION ITEMS AND DATES (2-0504)** - No discussion occurred on this Item.

**I. ADJOURNMENT (1-0505)** - Chairperson Christianson adjourned the meeting at 7:05 p.m.

The Minutes of the March 27, 2002, Carson City Planning Commission meeting

ARE SO APPROVED ON April 24, 2002.

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/s/

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Allan Christianson, Chairperson