



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** March 3, 2016

**Staff Contact:** Susan Dorr Pansky (spansky@carson.org)

**Agenda Title:** For Possible Action: To adopt Bill No. 103 on second reading, Ordinance No. \_\_\_\_, an ordinance approving an amendment to the development agreement between Carson City and Ross Park, LLC, to extend the tentative planned unit development map expiration date to March 15, 2017, for the development known as Ross Park, located at 4749 Snyder Avenue, APN 009-139-01, (MISC-16-006).

**Staff Summary:** The Ross Park Planned Unit Development tentative map will expire on March 15, 2016, unless the Board approves an extension of time as permitted under the current development agreement. The developer is requesting an extension of time to 2017 (one year) to allow adequate time to complete the processing of all necessary improvement permits and to record the final map.

**Agenda Action:** Ordinance - Second Reading

**Time Requested:** 5 minutes

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## **Proposed Motion**

I move to adopt Bill No. 103 on second reading, Ordinance No. \_\_\_\_\_, an ordinance approving an amendment to the development agreement between Carson City and Ross Park, LLC, to extend the tentative planned unit development map expiration date to March 15, 2017, for the development known as Ross Park, located at 4749 Snyder Avenue, APN 009-139-01, and matters properly related thereto.

## **Board's Strategic Goal**

Sustainable Infrastructure

## **Previous Action**

The Board of Supervisors introduced the ordinance on first reading at the February 18, 2016 meeting by a 5-0 vote.

## **Background/Issues & Analysis**

The Ross Park Planned Unit Development tentative map will expire on March 15, 2016, unless the Board approves an extension of time as permitted under the current development agreement. The developer is requesting a one-year extension of time to 2017 to allow time for the processing of all necessary improvement permits and to record the final map. As indicated by the developer's extension request letter, a significant amount of surveying and design work has been completed in an effort to meet the requirements to record a final map. The developer states that improvement plans for work within the Nevada Department of Transportation (NDOT) right-of-way were submitted on January 22, 2016 and that improvement plans for the rest of the site will be submitted to Carson City on February 2, 2016. Staff recommends approval of the requested extension to March 15, 2017 based on the demonstrated effort by the developer to complete the required improvements and record a final map within a the next year.

Attachments:

- 1) Ordinance and Development Agreement Amendment

**Applicable Statute, Code, Policy, Rule or Regulation**

CCMC 17.09 (Planned Unit Development), CCMC 17.08 (Development Agreements), NRS 278.0205 (Agreement Amendments)

**Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number:

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact:

**Alternatives**

Do not amend the agreement and allow the tentative PUD map to expire on March 15, 2016.

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

Aye/Nay

2) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

BILL NO. 103

ORDINANCE NO. 2016-\_\_\_\_

AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND ROSS PARK, LLC, TO EXTEND THE TENTATIVE PLANNED UNIT DEVELOPMENT MAP EXPIRATION DATE TO MARCH 15, 2017, FOR THE DEVELOPMENT KNOWN AS ROSS PARK, LOCATED AT 4749 SNYDER AVENUE, APN 009-139-01, AND MATTERS PROPERLY RELATED THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

WHEREAS, CARSON CITY and ROSS PARK, LLC entered into a Development Agreement that was approved by the Board of Supervisors as Ordinance 2013-9, Bill No. 104 on March 7, 2013 (hereinafter “Development Agreement”). CARSON CITY and ROSS PARK, LLC desire to amend the Development Agreement by agreeing to the First Amendment to the Development Agreement (hereinafter “Amendment”) attached hereto as Exhibit “A”; and

WHEREAS, the land that is the subject of this Amendment is comprised of land commonly known as Carson City Assessor’s Parcel Number 009-139-01, located at 4749 Snyder Avenue, Carson City Nevada; and

WHEREAS, the permitted uses of the land, the density or intensity of the land use, and the maximum height and size of any proposed buildings are not affected by this Amendment and are provided for in the approved Ross Park Planned Unit Development Map, the conditions of the Map, and the Development Agreement; and

WHEREAS, the Carson City Board of Supervisors finds that the contents of the Amendment conforms with CCMC 17.08, NRS 278.0205 and Carson City’s Master Plan; and

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

NOW, THEREFORE, the Board hereby approves by ordinance the First Amendment to the Development Agreement between CARSON CITY and ROSS PARK, LLC attached and incorporated herein as Exhibit "A" and associated with all or portions of Carson City Assessor's Parcel Numbers 009-139-01.

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

PROPOSED on \_\_\_\_\_, 2016.

PROPOSED BY Supervisor \_\_\_\_\_

PASSED \_\_\_\_\_, 2016.

VOTE:

AYES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAYS:

\_\_\_\_\_  
\_\_\_\_\_

ABSENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
ROBERT L. CROWELL, Mayor

ATTEST:

\_\_\_\_\_  
SUE MERRIWETHER, Clerk-Recorder

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day of the month of \_\_\_\_\_ of the year 2016.

**FIRST AMENDMENT TO  
THE DEVELOPMENT AGREEMENT  
between Carson City  
and Ross Park, LLC**

1. **AMENDMENTS.** All provisions of the original Development Agreement dated March 7, 2013, Document No. 437831 as recorded with the Carson City Recorder's Office on August 28, 2013, attached hereto as Exhibit A-1, remain in full force and effect with the exception of the following amendments:

An amendment to Section 2.7 of the Agreement, as follows:

2.7 Expiration by Inaction

This Agreement adopted pursuant to CCMC 17.08 requires that THE PROJECT shall be diligently pursued and the approvals referenced above (if no extension has been granted) shall expire if the final map and commencement of construction of THE PROJECT is not recorded and begun by ~~March 15, 2016.~~ **March 15, 2017.**

2. **INCORPORATED DOCUMENTS.** Exhibit A-1 (original Agreement) is attached hereto, incorporated by reference herein and made a part of this amended Agreement.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the day and year first above written and intend to be legally bound thereby.

**CARSON CITY**

**ROSS PARK, LLC**

\_\_\_\_\_  
By: Robert L. Crowell, Mayor

\_\_\_\_\_  
By:

RECORDED AT THE  
REQUEST OF  
CARSON CITY CLERK TO  
THE BOARD

2013 AUG 28 PM 3:49 437831

FILE NO. ALAN GLOVER  
CARSON CITY RECORDER  
FFS [Signature]

FOR RECORDER'S USE ONLY

APN 009.193.01

APN \_\_\_\_\_

APN \_\_\_\_\_

Ordinance No. 2013.9. Ross Park, LLC Dev. Agt.  
TITLE OF DOCUMENT

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain personal information of any person or persons. (NRS 239B.030)

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does contain personal information of a person or persons as required by law. State specific law: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

WHEN RECORDED MAIL TO:

cc Clerk - Rec. Secty. Div.

201 N. Carson St. Ste. 1

cc, NV 89701

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BILL NO. 104

ORDINANCE NO. 2013-9

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND ROSS PARK, LLC, REGARDING THE DEVELOPMENT OF A PLANNED UNIT DEVELOPMENT SUBDIVISION KNOWN AS ROSS PARK, LOCATED ON 1.24 ACRES BETWEEN SNYDER AVENUE, CALIFORNIA STREET, AND EAST APPION WAY, APN 009-193-01, TO EXTEND THE APPROVAL OF THE TENTATIVE MAP AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal effect: N/A

The Board of Supervisors of Carson City does hereby ordain:

SECTION I:

WHEREAS, Carson City desires to enter into a development agreement with Ross Park, LLC, concerning the development of land know as Assessor's Parcel Numbers 009-193-01, located between Snyder Avenue, California Street, and East Appion Way, Carson City Nevada.

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

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

NOW, THEREFORE, the Board hereby approves by ordinance the attached development agreement between Carson City and Ross Park, LLC, for the development of land know as Assessor's Parcel Numbers 009-193-01, said agreement being attached and incorporated herein as Exhibit "1".

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

PROPOSED on February 21, 2013 by Supervisor Brad Bonkowski.

PASSED March 7, 2013, by the following vote:

AYES: Supervisor Karen Abowd  
Supervisor John McKenna  
Supervisor Brad Bonkowski  
Supervisor Jim Shirk  
Mayor Robert Crowell

NAYS: None.

ABSENT: None.

ABSTAIN: None.



ROBERT L. CROWELL, Mayor

ATTEST:



ALAN GLOVER, Clerk-Recorder

This ordinance shall be in force and effect from and after the 10<sup>th</sup> day of March, 2013.

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT made and entered into this 10<sup>th</sup> day of March, 2013, by and between ROSS PARK, LLC, a Nevada limited liability company as Developer of that certain project known as ROSS PARK PUD, hereinafter referred to as "DEVELOPER," and CARSON CITY, a consolidated municipality of the State of Nevada, hereinafter referred to as "CARSON CITY."

RECITALS:

1. ROSS PARK PUD, is a proposed development encompassing 1.24 acres of real property, more or less, located in Carson City, Nevada, more particularly described in Exhibit "A";
2. On March 15, 2007, the Carson City Board of Supervisors approved a Right -Of-Way Abandonment (AB-07-011) and a Tentative Planned Unit Development (TPUD 07-011) for Twenty-Three (23) single family detached units. A copy of the official minutes and conditions of approval of such action, thereto are attached hereto as Exhibit "B" and incorporated herein by this reference ("THE PROJECT");
3. On April 5, 2007, the Carson City Board of Supervisors approved a Zoning Map Amendment (ZMA 07-009) for THE PROJECT to MFA-PUD;
4. Due to certain market and economic conditions that have developed since THE PROJECT tentative map approval, the DEVELOPER and CARSON CITY believe that it is mutually beneficial to enter into a Development Agreement and each mutually desire that THE PROJECT be developed in accordance with this Development Agreement.
5. CARSON CITY and DEVELOPER desire to hereinafter have the provisions of

this Development Agreement govern the development activities of THE PROJECT.

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

I.

PROJECT CHARACTERISTICS

THE PROJECT is a planned unit development project within the MFA-PUD zoning designation together with all of the uses accessory to and customarily incidental to the above-referenced zone.

Based upon the present tentative planned unit project map, THE PROJECT will be comprised of Twenty-Three (23) single-family dwelling units, open space and common areas as set forth in the approvals. The density is 18.5 units per acre.

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

II.

ADMINISTRATION OF THE PROJECT

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

2.1 Phasing

THE PROJECT development is anticipated to be developed in one phase.

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2.2 Height and Size of Proposed Buildings

All buildings shall conform to the Exhibit B conditions and Carson City standards for MFA-PUD zoning with respect to height and size.

2.3 Utility Connections

Within THE PROJECT, telephone, gas, cable and electrical power shall be provided by DEVELOPER to the building sites or dwelling unit and shall be placed underground to each lot or parcel. Public utility easements shall be granted and set forth on the final map.

2.4 Final Map Financial Assurances

The approval of the anticipated final map of THE PROJECT shall require a bond, cash deposit, lender set aside letter, letter of credit, an irrevocable certificate of deposit or other approved security to ensure completion of all or any portion of the public improvements equal to 150% of the approved engineer's cost estimate. DEVELOPER, at its discretion and option, may install any such public improvements prior to the recordation of the final map in lieu of posting such security. Public improvements include streets, sidewalks, curb and gutter, street lighting, sewer collection system, electric, water distribution systems, drainage system improvements and gas lines where the same are dedicated to public agency or body. Any assurance provided shall be periodically reduced in accordance with City approval in order that the entire assurance will be exonerated on final completion or improvement construction, except for a ten percent (10%) retention in accordance with CCMC 17.11.015.

2.5 Grading, Drainage, and Erosion Control Measures

The grading, drainage, and erosion control plan shall be submitted with the final map of THE PROJECT and shall be subject to approval by the City. The drainage design shall be in accordance with Title 18 Appendix, Carson City Development Standards, Division 14 Storm Drainage.

2.6 Restrictive Covenants

Prior to the filing of the final map of THE PROJECT, DEVELOPER shall prepare and submit to the City, Covenants, Conditions and Restrictions (CC&Rs) intended to apply to THE PROJECT. Said CC&Rs shall be reviewed by the Carson City Planning Division.

2.7 Expiration by Inaction

This Agreement adopted pursuant to CCMC 17.08 requires that THE PROJECT shall be diligently pursued and the approvals referenced above (if no extension has been granted) shall expire if the final map and commencement of construction of THE PROJECT is not recorded and begun by March 15, 2016.

2.8 Further Covenants

CARSON CITY shall not require any payments, contributions, economic concessions, or other conditions for approvals, contemplated within or by this Development Agreement other than as provided herein, or as provided in the Board of Carson City Supervisor's approval of March 15, 2007. Nothing set forth in this paragraph is to be construed to mean that Carson City cannot charge its standard permit fees.

2.9 Mutual Cooperation

CARSON CITY shall cooperate with DEVELOPER to obtain all necessary approvals, permits or to meet other requirements which are or may be necessary to implement

the intent of THE PROJECT approval in this Agreement. Nothing contained within this paragraph, however, shall require CARSON CITY or its employees to function on behalf of DEVELOPER nor shall this Agreement be construed as an implicit pre-approval of any further actions required by CARSON CITY.

2.10 Variances

As part of the approval of THE PROJECT, the DEVELOPER and CARSON CITY agreed that to avoid piecemeal, individual variance requests that THE PROJECT would be allowed the variances as set forth in the approvals attached hereto as Exhibit B.

III.

PUBLIC SAFETY COMPONENTS

3.1 Fire

All construction shall be in accordance with the Nevada Fire Code and applicable Carson City requirements.

The project shall be connected to the Carson City water system for fire suppression service, including construction of the necessary improvements to the satisfaction of CARSON CITY.

3.2 Lighting

The DEVELOPER shall install lighting as set forth in the approvals in Exhibit B.

IV.

PROJECT WATER AND WASTEWATER SYSTEM COMPONENTS

The DEVELOPER shall comply with the provisions of the Carson City Municipal Code, and make a perpetual offer of dedication of the water system sufficient to provide fire and

domestic flows, to the satisfaction of the Carson City Public Utility Department. The project subdivision shall be connected to the Carson City water system for domestic service. The project shall be connected to the Carson City wastewater treatment plant for sewer which equates to a multi-family rate service.

CARSON CITY agrees that water and sewer connection fees for the individual living units will be based on the apartment rate of 0.5 equivalent residential customer as set forth in CCMC 12.01.030 and 12.03.030. However, the water connection fees for irrigation of private yards, commonly owned landscaping, street landscaping, or any other project landscaping shall be in addition to the connection fees for the living units. The irrigation water usage shall be estimated by a qualified landscape design professional based on numbers of proposed sprinklers and drip heads, flow rates of devices to be installed, and hours of daily, weekly and seasonal operation anticipated. The daily irrigation water demand for use in determining connection fees shall be the estimated annual volume in gallons divided by 365 days per year. The water connection fees for irrigation shall be payable upon issuance of the site improvement permit.

V.

OPEN SPACE

The DEVELOPER will provide all open space and common area as approved in Exhibit B.

VI.

STREET IMPROVEMENT COMPONENTS

6.1 Curbs/Gutters

The DEVELOPER shall build all street improvements, including roadway

reconstruction, pavement widening, curb and gutters, sidewalks, drainage and street lighting to City standards as set forth in Exhibit B.

6.1 Dedications

The DEVELOPER will dedicate the corners of THE PROJECT to accommodate the intersection radii at the back of the sidewalks as set forth in Exhibit B.

VII.

PROJECT CONSTRUCTION REQUIREMENTS

All construction of THE PROJECT shall be done in accordance with the Standards Specification For Public Works Construction as adopted by CARSON CITY and all their applicable state and local codes, ordinances and statutes except as varied by the Project Approval.

The DEVELOPER may not apply for building permits until such time as the DEVELOPER has recorded a final map either through the completion of the infrastructure improvements, or posted financial assurances for such improvements for THE PROJECT. These infrastructure improvements shall include roadway frontage improvements, paved on-site access ways, underground utilities, water, sewer, drainage, landscaping, irrigation and all required common open space improvements. The DEVELOPER may not final any building permits or obtain a certificate of occupancy for any building prior to completion of the above-mentioned infrastructure improvements.

7.1 Grading and Slope

The DEVELOPER shall provide CARSON CITY with a development plan that specifies grading practices, extent of grading allowed at one time, a dust suppression program,



and erosion control and revegetation measures that effectively mitigate blowing dust and soil erosion problems associated with development of the site to the satisfaction of CARSON CITY. The applicant shall obtain an Air Quality permit and implement the approved plan and provide the State of Nevada or CARSON CITY with financial security for the required mitigation measures. The Developer shall obtain a Storm Water Pollution Prevention Permit from the State of Nevada prior to commencement of land clearing or grading activities.

## VIII.

### DEFAULTS, REMEDIES, TERMINATION

#### 8.1 General Provisions

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

After notice and expiration of the thirty (30) day period, the non-defaulting party to this Development Agreement, at its option, may institute legal proceedings pursuant to this Agreement. Following notice of intent to terminate, the matter shall be scheduled for consideration and review by CARSON CITY.

Following consideration of the facts and evidence presented in said review before

CARSON CITY, either party alleging the default by the other party may give written notice of termination of this Development Agreement to the other party.

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

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

#### 8.2 Enforced Delay, Extension of Time of Performance

In addition to specific provisions of this Development Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to

war, insurrection, strikes, walk-outs, riots, floods, earthquakes, avalanches, inclement weather, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, not parties to this Agreement, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance. If written notice of such delay is given to CARSON CITY within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, as may be mutually agreed upon. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. Carson City shall not be held liable to the Developer for damages (actual, incidental or otherwise) as a result of its failure to review or approve permits and entitlements in a timely manner.

## IX.

### MISCELLANEOUS

#### 9.1 Carson City Code

THE PROJECT shall comply with all ordinances and fees adopted by CARSON CITY, applied on a uniform basis to all development projects in CARSON CITY.

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

The proposed development shall be in accord with the objective of Title 17 of Carson City Municipal Code.

Should any provision of this Agreement be deemed to be in conflict with the

Exhibit "B" conditions of approval, the Exhibit "B" conditions shall control.

9.2 Cost Reimbursement

The DEVELOPER may be entitled to pro rata reimbursement from adjacent property owners for water and/or sewer lines constructed by DEVELOPER, subject to requirements and limitations contained in CCMC 12.01.210 and 12.05.050.

X.

APPLICABLE LAW AND ATTORNEYS' FEES

This Development Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Should any legal action be brought by either party relating to this Development Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the court.

XI.

SUCCESSORS AND ASSIGNS

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

XII.

ENTIRE AGREEMENT

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

XIII.

HOLD HARMLESS AND INDEMNIFICATION

DEVELOPER hereby agrees to, and shall hold CARSON CITY, its elective and appointive boards, commissions, officers, agents and employees harmless from any liability for damage or claims for property damage which may arise from DEVELOPER's or DEVELOPER'S contractors', subcontractors', agents', or employees' operations under this Development Agreement, whether such operations by DEVELOPER or by any of DEVELOPER's contractors, subcontractors, or by any one or more person directly or indirectly employed by, or acting as agent for DEVELOPER or any of DEVELOPER's contractors or subcontractors. DEVELOPER agrees to, and shall defend CARSON CITY, its elective and appointive boards, commissions, officers, agents and employees, from any suits or actions at law or in equity for damage caused or alleged to have been caused by reason of the aforesaid operations.

XIV.

PROJECT AS PRIVATE UNDERTAKING

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

XV.

FURTHER ASSURANCES

In the event of any legal action instituted by any third party or other government

entity or official challenging this Development Agreement, CARSON CITY and DEVELOPER shall cooperate and use their best efforts in defending any such action.

Effective this 7<sup>th</sup> day of March, 2013.

ROSS PARK, LLC, a Nevada  
limited liability company

By: ALTA RESOURCES, LLC,  
a Nevada limited liability company

By: \_\_\_\_\_  
ERNESTO FLORES, Manager

CARSON CITY, a consolidated  
municipality

By:

  
ROBERT CROWELL, Mayor

Approved as to form:

CARSON CITY DISTRICT ATTORNEY

By:

  
Randy Altman  
City Deputy DA

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entity or official challenging this Development Agreement, CARSON CITY and DEVELOPER shall cooperate and use their best efforts in defending any such action.

Effective this 7<sup>th</sup> day of March, 2013.

ROSS PARK, LLC, a Nevada limited liability company

CARSON CITY, a consolidated municipality

By: ALTA RESOURCES, LLC, a Nevada limited liability company

By: \_\_\_\_\_  
ROBERT CROWELL, Mayor

By:  \_\_\_\_\_  
ERNESTO FLORES, Manager

Approved as to form:

CARSON CITY DISTRICT ATTORNEY

By: \_\_\_\_\_  
\_\_\_\_\_

437831

EXHIBIT "A"

All that real property situated in Carson City, Nevada more particularly as follows:

A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 15 NORTH, RANGE 20 EAST, M.D.B.&M, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 32, WITH THE NORTHEASTERLY ONE HUNDRED FOOT RIGHT-OF-WAY LINE OF THE STEWART ROAD, SAID POINT BEING FURTHER DESCRIBED AS BEARING SOUTH 33°44'34" EAST A DISTANCE OF 1586.00 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 32; THENCE SOUTH 89°54'40" EAST, ALONG THE NORTH LINE OF THE NORTH QUARTER OF SECTION 32, A DISTANCE OF 440.16 FEET TO THE NORTHEAST CORNER OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 32; THENCE SOUTH 0°00'58" WEST ALONG THE EAST LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 32, A DISTANCE OF 329.40 FEET TO THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 32, THENCE NORTH 89°54'36" WEST ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 32, A DISTANCE OF 24.64 FEET TO A POINT ON THE NORTHEASTERLY ONE HUNDRED FOOT RIGHT-OF-WAY LINE OF THE STEWART ROAD; THENCE NORTH 51°32'00" WEST ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 530.58 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS AND OTHER MINERAL DEPOSITS, AS RESERVED IN THE PATENT RECORDED JUNE 10, 1960 IN BOOK 85, PAGE 566, DOCUMENT NUMBER 32572 OF DEED RECORDS.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED FEBRUARY 25, 2005 AS DOCUMENT NUMBER 332432 OF OFFICIAL RECORDS.

APN: 009-193-01

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# CARSON CITY, NEVADA

CONSOLIDATED MUNICIPALITY AND STATE CAPITAL  
DEVELOPMENT SERVICES

★ CLERK ★  
**FILED**

Time 4:16p

MAY 22 2007

By K. King  
Deputy  
Carson City, Nevada

## BOARD OF SUPERVISORS

**March 15, 2007 - Tentative Map & Right-Of-Way Abandonment**  
**April 5, 2007 - Zoning Map Amendment**

## NOTICE OF DECISION

A request for approval of an application for a Tentative Planned Unit Development known as Ross Park PUD from Randall Long of Lumos & Associates (property owner: Ross Park LLC) to allow 23 single family detached units on 1.24 acres with associated **Variances** to allow a reduction of the required 20 foot periphery PUD setback, a reduction of required MFA setbacks, a reduction of the MFA standard lot area from 6,000 square feet to 750 square feet, a reduction of the MFA required lot width of 60 feet to a lot width of 25 feet, and a reduction of the minimum PUD site area from 5 acres to 1.24 acres and an Abandonment of a 5 foot right-of-way approximately 290 feet in length of California Avenue and a 5 foot right-of-way approximately 350 feet in length of E. Appion Way and a **Zoning Map Amendment** to change the zoning from Single Family One Acre (SF1A) to Multi-Family Apartment-Planned Unit Development (MFA-PUD) on property currently zoned Single Family One Acre (SF1A) located at 4749 Snyder Avenue, APN 009-193-01.

The Board of Supervisors conducted a public hearing on March 15, 2007, in conformance with City and State legal requirements, and approved the Tentative Planned Unit Development (File TPUD-07-010) based on the findings contained in the staff report and subject to the following 54 conditions of approval, 2 stipulations; approval of Right-Of-Way Abandonment (AB-07-011) based on findings contained in the staff report and subject to the following 5 conditions of approval; and approval of first reading of the Zoning Map Amendment (ZMA-07-009) based on the findings in the staff report.

The Board of Supervisors conducted a public hearing on April 5, 2007, in conformance with City and State legal requirements, and approved the Second Reading of the Zoning Map Amendment (ZMA-07-009) based on the findings in the staff report.

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PLANNING DIVISION • 2621 Northgate Lane, Suite 62 • Carson City, Nevada 89706  
Phone: (775) 887-2180 Fax: (775) 887-2278 E-mail: plandiv@ci.carson-city.nv.us

**CONDITIONS OF APPROVAL:**

**The following shall be completed prior to construction permit or final map.**

1. The final map shall be in substantial accord with the approved Tentative Map and the Tentative Map shall be signed by the Mayor, Planning Commission Chairman and the Planning Director.
2. The applicant must sign and return the Notice of Decision/conditions of approval within 10 days of receipt of notification. If the Notice of Decision is not signed and returned within 10 days, the item may be rescheduled for the next Planning Commission meeting for further consideration.
3. Water, sewer and traffic reports shall be reviewed and approved by the City Engineer. A formal letter of acceptance is required. Recommendations of these reports shall be included in the subdivision improvements.
4. Final improvement plans for the development must be prepared in accordance with CCDS Division 19 and the Standard Specifications and Details for Public Works Construction, as adopted by Carson City.
5. The applicant must adhere to all Carson City standards and requirements for water and sewer systems, grading and drainage, and street improvements, as outlined in the Development Standards and other applicable Divisions and as required by the Standard Specifications and Details for Public Works Construction, as adopted by Carson City. No deviations from the standards are allowed unless specifically noted on the approved tentative map.
6. A stand alone Operation and Maintenance (O&M) manual shall be prepared for private storm drainage facilities, submitted to the City for review and acceptance prior to recording of the final map. This manual will assist the homeowners association with required maintenance.
7. The applicant must obtain a dust control and storm water pollution prevention permit from the Nevada Division of Environmental Protection (NDEP). The site grading must incorporate proper dust control and erosion control measures.

**The following shall be specific revisions to the Tentative Map:**

8. The revised tentative map shall be reviewed and signed by the Planning Director and City Engineer prior to improvement plan submittal.
9. The map shall contain the following note: "A blanket PUD is hereby granted in the common areas for the exclusive purpose of allowing installation and maintenance of utility facilities to each lot at locations mutually agreed upon by the owner of record at the time of installation and the utility company."

10. All streets shall include streetlights, per City standards. All internal lighting must be designed at a pedestrian scale and shall be reviewed and approved by the Planning Division.
11. Maintenance of on-site improvements including alleyways, pedestrian walkways, storm drainage facilities, water, sewer, landscaping and common areas will be the responsibility of the homeowners association. Snow plowing of on-site areas will also be the responsibility of the homeowners association. This notation will be included in the home owners CC&R's.
12. The survey description shall be broken down into 40-acre 1/4 quarter section. This site is located in the NE quarter of the NE quarter of the referenced section.
13. The map shall reflect that any common landscaped areas, including those within the right-of-way, are to be maintained by the homeowners association and not by Carson City.
14. The revised tentative map must reflect all exterior landings, porches, cantilevers, etc. The tentative map shall accurately follow all components of the structure. If the property line is to be the footprint of the structure, it must accurately follow all components of the structure.
15. Show all necessary right-of-way dedication at the property corners in order to accommodate the intersection radii at back of sidewalk.
16. Provide a proposed cross-section for Snyder Avenue improvements.
17. Show intended locations of street lights.
18. Show locations of mailboxes. Mail cluster boxes shall be dispersed throughout the project. The locations shall be approved by the Engineering Division, Planning Division and the United States Postal Service.

**The following shall be completed prior to final map:**

19. Prior to submittal of any final map or parcel maps, Development Engineering shall review and approve all on-site and off-site improvements.
20. A "will serve" letter from the water and wastewater utilities must be provided to the Nevada Health Division prior to approval of a final map.
21. Prior to the recordation of the final map for any phase of the project, the improvements associated with said phase must either be constructed and approved by the City, or the specific performance of said work secured by

providing the City with a proper surety in the amount of 150% of the engineer's estimate. In either case, upon acceptance of the improvements by the City, the developer shall provide the City with a proper surety in the amount of 10% of the engineer's estimate to secure the developer's obligation to repair defects in workmanship and materials which appear in the work within one year of acceptance by the City.

**The following shall be included with the design of construction/improvement plans:**

22. Street lighting is required along all frontages in accordance with Carson City Development Standards (CCDS) 12.14.
23. In accordance with CCDS 12.10 and 12.11.10, pavement sections shall be based on sub-grade strength values determined by Resistance Value or California Bearing Ratio (CBR) as shown in the Soils Engineering Report. Refer to CCDS Division 17 for soils report requirements. In no case shall the proposed pavement section be less than the minimum section prescribed in standard drawing C-1.11.
24. Complete reconstruction is required on Appion Way and California Street due to the poor condition of existing roadways. This will require removal of all existing pavement and may require removal of existing gravel base if it does not meet Type 2, Class B specifications. The new street section shall be graded with 2% standard crown located at the right-of-way centerline.

The required Appion Way frontage improvements shall consist of urban half-street improvements south of the right-of-way centerline, and rural half-street improvements north of centerline. The urban improvements shall consist of 17' pavement with curb, gutter and sidewalk. This will accommodate on-street parking and an eastbound travel lane. The rural improvements shall consist of 10' of pavement with a 4' gravel shoulder. This will accommodate the westbound travel lane.

The required California Street frontage improvements shall consist of urban half-street improvements west of the right-of-way centerline, and rural half-street improvements east of centerline. The urban improvements shall consist of 17' pavement with curb, gutter and sidewalk. This will accommodate on-street parking and a southbound travel lane. The rural improvements shall consist of 10' of pavement with a 4' gravel shoulder. This will accommodate the northbound travel lane.

25. Accessible curb ramps are required at driveways and intersections to meet current ADA standards.
26. Improvements to Snyder Avenue will require NDOT approval.

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27. Storm drainage facility improvements shall be designed in accordance with CCDS Division 14. A Technical Drainage Study is required with submittal of Improvement Plans in accordance with CCDS 14.9 through 14.10.
28. On-site storm runoff detention shall be sized to limit flows from a 5-year storm (Q5) to the pre-developed condition in accordance with CCDS 14.1.8.
29. Water mains shall be extended along all street frontages in accordance with CCDS 15.1.1. In addition, off-site extension of water main (approximately 350 feet) is required along California Street to connect to existing water main at Willow Street.
30. Private sewer mains may be located within the private alleyways, with maintenance responsibility solely by the homeowners association.

**The following must be submitted or included with the final subdivision map:**

31. These notes shall be added to the final map:
  - A. "These parcels are subject to Carson City's Growth Management Ordinance and all property owners shall comply with provisions of said ordinance."
  - B. "All development shall be in accord with Tentative Map (TPUD-07-010)."
32. All street names shall be reviewed and approved by Carson City's GIS Department. The approved names shall be shown on the final map.
33. All final maps must be substantially in accordance to the Director's satisfaction with the approved tentative map.
34. All other departments and State agencies conditions of approval, which are attached, shall be incorporated as conditions of approval.
35. A copy of the signed Notice of Decision.
36. Evidence from the City Health Department and Fire Department that the applicable department's requirements have been satisfied, including but not limited to the location of all fire hydrants.

**The following are general conditions:**

37. All disturbed areas are required to have a palliative applied for dust control. Any and all grading must comply with State and City regulations.
38. Building permits for home construction shall not be issued until streets and

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infrastructure improvements are deemed substantially complete by the City Engineer.

39. Hours of construction shall be limited from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturday and Sunday. If the hours of construction are not adhered to, the Carson City Building Department will issue a warning for the first violation, and upon a second violation, will have the ability to cause work at the site to cease immediately.
40. A Final Subdivision Map for the property must be recorded within two years of the date of Tentative Subdivision Map approval by the Board of Supervisors. The applicant is responsible for complying with the required conditions of approval and submitting a final map that complies with all conditions of approval at least 30 days prior to the tentative map expiration date. A one-year extension of the tentative map approval period may be granted by the Board of Supervisors upon written request at least 30 days prior to the tentative map expiration date.
41. No parking is allowed on any private street/alleyway and enforced by the development's homeowners association through the CC&R's.
42. Placement of all utilities, including AT&T Cablevision shall be underground within the subdivision. Any existing overhead facilities must be relocated prior to the submittal of a parcel map or preferably final maps.
43. The maximum number of residential lots is 23 for Ross Park. Any increase will require a new tentative map.
44. Application TPUD-07-010 is subject to the approval of application AB-07-011 and application ZMA-07-009.
45. Building plans for individual units shall be in substantial compliance with plans submitted with the tentative PUD application.
46. The Planning Director and the District Attorney's Office shall approve the development's CC&R's prior to the recording of the first final map.
47. All fencing shall meet the requirements of CCMC Development Standards Division 1.
48. All lot areas and lot widths shall meet the Planned Unit Development and Zoning requirements approved as part of this tentative map with the submittal of any parcel map or preferably final map.
49. With the submittal of any parcel map or preferably final maps, the applicant shall provide evidence to the Planning Division from the Health and Fire

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Departments indicating the agencies' concerns or requirements have been satisfied. Said correspondence shall be included in the submittal package for any parcel map or preferably final maps, and shall include approval by the Fire Department of all hydrant locations.

50. Prior to submittal of the final map the applicant must consult with Carson City School District regarding a centralized school bus stop location and provide said information to the Planning Division at the submittal of the final map.
51. The Unified Pathways Master Plan identifies Snyder Avenue as a proposed bicycle lane facility.

As a result, The Parks and Recreation Department would request that the Planning Commission require the developer to provide a 5 foot wide on-street bicycle lane with the development's required half-street frontage improvements.

52. The residential units within the development will be subject to the collection of Residential Construction Tax. These funds will be collected and used for new park amenities and facility construction throughout Carson City's park system.
53. Exterior building colors should blend with surrounding development and not cause abrupt changes. Primary building surfaces (excluding trim areas) should be muted or earth-tone in color. Bold colors shall be avoided except when used as accent or trim. The exterior building elevations will be subject to the review and approval of the Planning Division.
54. Ross Park will utilize lighting options which include Sierra Pacific street lights. The lighting fixtures include a variety of designs which Sierra Pacific designs, installs, operates and maintains. All fixtures will incorporate cut-off options supporting the "Dark Skies" initiative.

Stipulations:

1. The applicant will work with the Planning Division staff to improve the street landscaping treatment on the eastern boundary of Ross Park, which will result in an increased sensitivity to the rural property to the east.
2. The applicant will work with the Planning Division staff and Engineering Division staff to address the potential impacts of the residents of the Ross Park's **inappropriate** use of street parking on East Appion Way and California Street through the CC&R's.


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**RIGHT OF WAY ABANDONMENT RECOMMENDED CONDITIONS OF**

**APPROVAL:**

1. Applicant shall provide all corrected legal descriptions, survey information and documentation necessary for the recordation of this action.
2. Applicant shall provide required documents and exhibits for the abandonment of the existing public utility easements behind the right-of-way being requested for abandonment. Easement abandonment applications are available at the Planning Division. Prior to recordation of the right-of-way abandonment, the abandonment of public utility easement application and related documents must be reviewed and approved for recordation by the City.
3. Applicant shall provide required documents and exhibits to dedicate new public utility easements behind the new right-of-way lines. Dedication documents and exhibits shall be submitted and approved for recordation by the City prior to recordation of the abandonment of public right-of-way.
4. This abandonment is for :  
  
APN: 009-193-01:
  - The total of the proposed East Appion Way abandonment is approximately 1,877 square feet more or less.  
APN: 009-193-01:
  - The total area of the proposed California Street abandonment is approximately 1,372 square feet more or less.
5. Public utility easements will be maintained over the subject right-of-way for the continued provision and maintenance of existing utilities or until additional written information is provided to document otherwise.

These decisions were made on a vote of 3 ayes, 1 nay, 1 absent/abstain.

  
Walter A. Sullivan, AICP  
Planning Director


Mailed 5/23/07, By R1117

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Notice of Decision  
March 15, 2007 - Tentative PUD Map & Right-of-Way Abandonment  
April 5, 2007 - Zoning Map Amendment

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

  
Ernest R. Flores  
APPLICANT and/or OWNER SIGNATURE

5/29/07  
DATE

Ernest R. Flores  
(Applicant and/or Owner Printed Name)

**RETURN TO:**

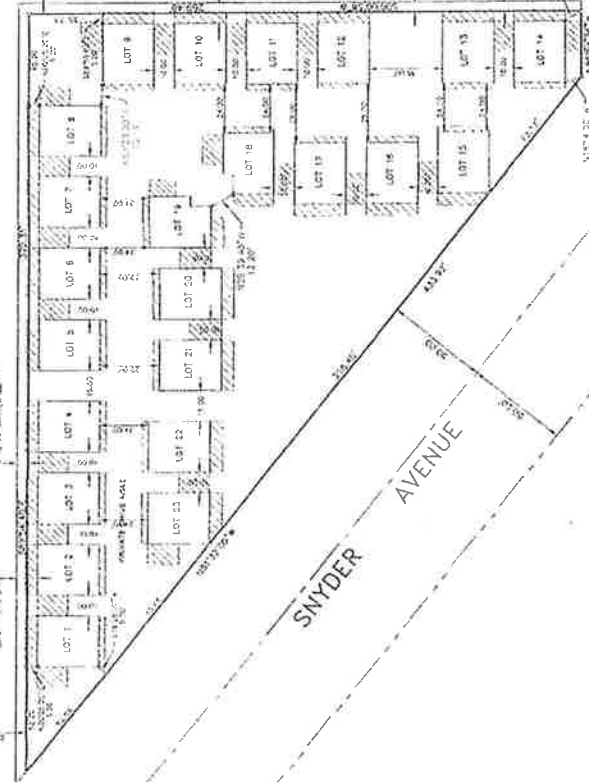
**Carson City Planning Division  
2601 Northgate Lane, Suite 62  
Carson City, NV 89706**

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E. APPLION WAY

CALIFORNIA STREET

SNYDER AVENUE



LEGEND  
 --- CONTIGUOUS OF STREET  
 --- BOUNDARY OF WAY - LINE  
 --- FUTURE PROPERTY LINE  
 \* DIMENSION POINT, NOTHING FOUND OR SET  
 [Hatched Box] UNITED COMMON AREA

**TENTATIVE MAP**  
 ROSS PARK P.L.D.  
 SUBDIVISION OF APR 09-1922-01  
 LOCATED WITHIN A PORTION OF THE NW 1/4 OF SECTION 32,  
 T15 N., R27 E., M.40A & B.  
 CARSON CITY, NEVADA

DATE: 1-15-27  
 JOB No. 888.009  
 Dwg. 688002710.dwg

FILE NO. \_\_\_\_\_  
 SHEET 2 OF 3

REC'D FOR RECORDING BY \_\_\_\_\_ DAY OF \_\_\_\_\_  
 IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ OF THE  
 OFFICIAL RECORDS OF CARSON CITY,  
 NEVADA AT THE REQUEST OF  
 REC'D BY: L.L.  
 A. WILSON LAND UTILITY COMPANY

REC'D BY: \_\_\_\_\_  
 REC'D FOR RECORDING BY \_\_\_\_\_ DAY OF \_\_\_\_\_  
 IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ OF THE  
 OFFICIAL RECORDS OF CARSON CITY,  
 NEVADA AT THE REQUEST OF  
 REC'D BY: L.L.  
 A. WILSON LAND UTILITY COMPANY

**LUMOS**  
 LAND SURVEYING & ENGINEERING  
 1000 COLLEGE AVENUE  
 CARSON CITY, NEVADA 89401

TYPICAL FOR LOTS  
 12 LOTS = 9,000 Sq. Ft.

TYPICAL FOR LOTS  
 5 LOTS = 6,750 Sq. Ft.

CURRENT AREA	Sq. Ft.	ACRES
RECURSORS	54,525	1.25
UNITED COMMON AREA	0	0.00
TOTAL COMMON AREA	54,525	1.25

CURRENT TOTAL COMMON AREA	Sq. Ft.	ACRES
GENERAL COMMON AREA	30,575	0.70
UNITED COMMON AREA	+ 37,375	+ 0.85
TOTAL COMMON AREA	= 67,950	= 1.55

PROPOSED TOTAL COMMON AREA	Sq. Ft.	ACRES
ABANDONED AREA	31,575	0.72
UNITED COMMON AREA	+ 6,900	+ 0.16
PROPOSED TOTAL COMMON AREA	= 40,625	= 0.93

- NOTES:
1. SHOW PLOWING AND SNOW REMOVAL RELATIVE TO THE INTERIOR ALLEYWAYS FOUND IN THE SUBMISSION WILL BE THE SOLE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION FOR ALL COMMON AREAS.
  2. A COMMON ACCESS AND DRAINAGE, MAINTENANCE AND PUBLIC UTILITY EASEMENT IS NECESSARY GRANTED FOR ALL COMMON AREAS.
  3. ON-SITE STORM DRAINAGE FACILITIES WILL BE PRIVATELY MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
  4. ALL SITE IMPROVEMENTS ARE TO BE PRIVATELY MAINTAINED BY THE HOMEOWNERS ASSOCIATION.

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Discussion between Mayor Teixeira and City Manager Ritter indicated that Ms. Ritter owns kayaks but had not gone down the Canyon. Discussion also indicated that you should canoe/kayak with a partner and that individuals will leave their vehicles at both ends in order to enter the River at one location and have transportation back to the City. Shuttle services may be provided in the future. Additional comments were solicited but none were given.

Supervisor Livermore disclosed that Kevin Hill is looking at the opportunity to obtain Question 1 funds and that the soft costs will be shared by Carson City and Lyon County. The project is the only concept that he is aware of that is being coordinated by two Counties. For that reason State Lands is considering grant funding from Question 1 monies.

Supervisor Livermore moved to approve a Master Plan Amendment application from the Carson City Parks and Recreation Department amending the Unified Pathways Master Plan Element to incorporate the Carson River Aquatic Trail Master Plan, relocate a pathway identified on Arrowhead Drive to the south side of the Airport property, and make technical corrections including minor text and map revisions, File MPA 07-008. Supervisor Williamson seconded the motion. Motion carried 4-0.

RECESS: A recess was declared at 9:56 a.m. A quorum of the Board was present when Mayor Teixeira reconvened the meeting at 10:04 a.m. Supervisor Aldean was absent as previously indicated.

**C. ACTION TO APPROVE THE FOLLOWING: TENTATIVE PLANNED UNIT DEVELOPMENT APPLICATION KNOWN AS ROSS PARK PUD FROM RANDALL LONG OF LUMOS AND ASSOCIATES (PROPERTY OWNER: ROSS PARK, LLC), TO ALLOW 23 SINGLE FAMILY DETACHED UNITS ON 1.24 ACRES WITH ASSOCIATED VARIANCES TO ALLOW A REDUCTION OF THE REQUIRED 20 FOOT PERIPHERY PUD SETBACK, A REDUCTION OF REQUIRED MFA SETBACKS, A REDUCTION OF THE MFA STANDARD LOT AREA FROM 6,000 SQUARE FEET TO 750 SQUARE FEET, A REDUCTION OF THE MFA REQUIRED LOT WIDTH OF 60 FEET TO A LOT WIDTH OF 25 FEET, AND A REDUCTION OF THE MINIMUM PUD SITE AREA FROM FIVE ACRES TO 1.24 ACRES AND AN ABANDONMENT OF A FIVE FOOT RIGHT-OF-WAY APPROXIMATELY 290 FEET IN LENGTH OF CALIFORNIA AVENUE AND A FIVE FOOT RIGHT-OF-WAY APPROXIMATELY 350 FEET IN LENGTH OF EAST APPION WAY AND A ZONING MAP AMENDMENT TO CHANGE THE ZONING FROM SINGLE FAMILY ONE ACRE (SF1A) TO MULTI-FAMILY APARTMENT - PLANNED UNIT DEVELOPMENT (MFA-PUD) ON PROPERTY CURRENTLY ZONED SINGLE FAMILY ONE ACRE (SF1A) LOCATED AT 4749 SNYDER AVENUE, APN 009-193-01. (FILE TPUD-07-010163) (9:02:57) - Lumos and Associates Representative Randall Long, Architect Jeff Frame, Deputy City Engineer Jeff Sharp, Public Works Director Andrew Burnham, Applicant's Attorney Joan Wright, Senior Planner Jennifer Pruitt - Mr. Long agreed with the "huge" staff report with stipulations. They agree with the Planning Commission's comments regarding additional landscaping on California and to agree to address parking requirements under Condition 46 of the CC&Rs. Otherwise, they agree to all of the conditions in the staff report and request that the approval be subject to those verifications. A power point program was used to explain the project including the location, how development occurred, examples**

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illustrating the concepts that are found in the surrounding area, structure designs, and the site plan. Discussion pointed out that the Homeowners Association will handle the streets including their maintenance and snow plowing. Mr. Long continued with his power point and explanation of the pedestrian entry way, the breezeway linkage to the private drives and common areas, the amenities including the open space park area, landscaping, and the 30-foot buffer. Mayor Teixeira pointed out that the developer will obtain the right-of-way encroachment permit from NDOT for the use of the buffer area. Once the area is planted, the homeowners' association will maintain the landscaping. Mr. Frame also agreed that this is not a stipulation. The size and design of the structures were explained. Discussion indicated that the ten feet between structures is considered the courtyard area. It will have a six-foot fence. Mr. Sullivan indicated that if the current developer flips the property, the new developer will be required to construct the project as described unless the Planning Commission approves the revisions/modifications. Mr. Frame continued his explanation of the structures.

Mr. Sullivan indicated that staff will support the Applicant's request for a right-of-way encroachment permit on Snyder. Justification for the support was provided. Mr. Sharp explained staff's recommendation that the Applicant pursue having parking along Snyder. NDOT will have to approve this program. Staff will support the Applicant's permit request before NDOT. The plan provides on-street parking on California and Appion. The Applicant has agreed to make improvements to Appion. Appion is in bad shape. The street was previously dedicated to the City. Mr. Long explained that verbal communications with NDOT have indicated that NDOT is opposed to allowing parking along Snyder. Mayor Teixeira asked that they obtain the objection in writing. Mr. Burnham explained discussions that have been going on with NDOT regarding the street. The current plan is to have the City write the permits for NDOT. They will sign the permits and defer to the City's requests. The agreement regarding this program will be considered by RTC in May and the Board by June. Mayor Teixeira indicated that the program will depend on the minute details. He questioned the reasons for doing it if the City does not gain anything. The City has already mortgaged its gas tax. Mr. Burnham indicated that NDOT recognizes that the gas tax is being used for the freeway. They have allegedly said that we are paid in full and can stop paying. An agreement to this effect has not "come forward" as yet. Mayor Teixeira questioned NDOT's reasons for objecting to the plan as the developer will upgrade the area and maintain the landscaping. NDOT does not have the funds to do it. Mr. Burnham agreed. Mr. Sharp explained that the NDOT right-of-way is 100 feet wide. The roadway does not require a lot of space. There is lots of room for parking. Mayor Teixeira pointed out that the objection is similar to the plan to put parking along William Street in an area that was located in Mills Park. NDOT originally had objections to that concept.

Mr. Long indicated that the plan exceeds the open space requirement. He then continued his explanation of the site amenities and highlighted the key elements of the CC&Rs. Discussion indicated that the Association will have the right to tow vehicles parked on the streets. Ms. Wright explained that the CC&Rs will contain language that allows the Association to have the vehicles towed. The vehicle's owner will be responsible for the costs incurred to do so. Justification for prohibiting parking on the project's streets were explained. Adequate parking is available on California and Appion. She emphasized that the CC&Rs are strong. Supervisor Livermore noted that there are 27 parking spaces on California and Appion. He wondered how long it will be before the residents begin to use the parking at Ross Gold Park for their

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personal use. He asked that the CC&Rs include a prohibition against parking at the park. Justification for his concern was provided by explaining the problems encountered at Palo Verde. Ms. Wright agreed to add the prohibition. She felt that the City could control the parking at Ross Gold Park. They do not believe that they have a parking problem as they meet the Code requirements. She, again, agreed to attempt to expand the parking restrictions to include Ross Gold Park. Supervisor Staub supported Supervisor Livermore's comments and concern due to his belief that when the two-car garage is full of toys/other items, people will seek additional parking areas, i.e., Ross Gold Park. Ms. Wright indicated that the CC&Rs can mention no residential parking on California and Appion as well as at Ross Gold Park. She felt that the City already has signs prohibiting overnight parking at the park. Mayor Teixeira also supported emphasizing the prohibition in the CC&Rs. He pointed out that the park is located across from the proposed development. The children will use the park for recreational purposes. It is an asset to the developer/development. He also hoped that the PUD owners do not restrict the recreational park users' parking ability. Ms. Wright concurred that it is an asset. Both Ms. Pruitt and Ms. Wright pointed out that the CC&Rs indicate the residents are to park in their garages. Supervisor Livermore explained that the City has received petitions indicating park users are parking in front of residences. There are 35 to 50 parking spaces at the park. The developer does not want the residents to use it for private purposes. Supervisor Williamson pointed out the desire to have the park be used. She felt that the residents of the development may want to use the barbeque facilities as their onsite facilities are limited. They may also have visitors who want to use the park. Comments indicated that there is no issue with uses of this type. The intent is to stop the residents' acquisition of the parking at the park for private purposes.

Mr. Long continued his summary of the CC&Rs indicating the landscaping easements, mandating that the units be owner occupied, and the dues. A land use map was used to illustrate the surrounding uses. Additional questions from the Board were solicited but none made.

Public comments were solicited. None were given. The Planning Commission had approved the application on a 4-3 vote. Ms. Pruitt felt that the Commissioners who opposed the PUD were concerned about the parking even though the project will meet Code requirements for parking. The surrounding neighbors were notified about the project. A few had looked at the plans. Their issues were primarily the parking and density of the project. Additional comments were again solicited but none given.

Supervisor Staub moved to approve a Tentative Map Planned Unit Development application known as Ross Park from Randall Long, Lumos and Associates, Inc., property owner Ross Park, LLC, consisting of 23 single family dwelling units and common open space on 1.24 acres located at 4749 Snyder Avenue, Assessor's Parcel Number 009-193-01 based upon 12 findings and subject to the recommended conditions of approval contained in the staff report and modification of Condition of Approval No. 24 and two stipulations made by the applicant and this motion shall also include the Applicant's agreement to address additional landscaping up along California Street and their agreement to address the parking comments under Condition No. 46 of the CC&Rs. Supervisor Livermore seconded the motion. The motion was voted by roll call with the following result: Supervisor Williamson - Yes; Mayor Teixeira - will go last; Supervisor Staub - Yes; Supervisor Livermore - Yes; Mayor Teixeira - disclosed having talked at length on not only this project but the prior project; could not understand why we can't even get just a little bit of, and you

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know Joan. I'd vote-. I told you to take it to the developer, give some guest parking, but I guess that this is out of their vocabulary, so once again I will vote no on the project. the motion passes 3-1. Clarification indicated that the zone change ordinance which is part of this application will be numbered 108.

(9:47:13) Following discussion of the motion and the need for additional actions. Supervisor Staub moved to consider the following Tentative Planned Unit Development application known as Ross Park PUD from Randall Long of Lumos and Associates, property owner: Ross Park, LLC, to allow 23 single family detached units on 1.24 acres with associated variances to allow a reduction of the required 20 foot periphery PUD setback, a reduction of required MFA setbacks, a reduction of the MFA standard lot area from 6,000 square feet to 750 square feet, a reduction of the MFA required lot width of 60 feet to a lot width of 25 feet, and a reduction of the minimum PUD site area from five acres to 1.24 acres and an abandonment of a five-foot right-of-way approximately 290 feet in length of California Avenue and a five-foot right-of-way approximately 350 feet in length of East Appion Way and a zoning map amendment to change the zoning from Single Family One Acre, SF1A, to Multi-Family Apartment - Planned Unit Development, MFA-PUD, on property currently zoned Single Family One Acre, SF1A, located at 4749 Snyder Avenue, APN 009-193-01, with the additions that the Applicant agrees to additional landscaping along California Street and agrees to address the parking comments under Condition 46 of the CC&Rs. Following a request for an amendment, Supervisor Staub amended his motion to approve the Tentative Planned Unit Development as indicated. Supervisor Livermore seconded the motion. Motion carried 3-1 with Mayor Teixeira voting Naye. Clarification also indicated that the zone change ordinance contained within this motion will be numbered 108.

**7. PARKS AND RECREATION - OPEN SPACE - Manager Juan Guzman**

**A. DISCUSSION AND PRESENTATION REGARDING THE SHEEP AND FUELS REDUCTION PROJECT ALONG THE CARSON CITY WEST WILDLAND INTERFACE AREA PLANNED FOR SPRING 2007 (9:46:05)** - Open Space Assistant Ann Bollinger reminded the Board of last year's fuel reduction project. (9:50:27) Ms. Bollinger continued her explanation of the proposed fuel reduction plan and the locations. Although the public is encouraged to come and look at the sheep, they were urged to leave their dogs at home. Justification for the request was limned. Discussion indicated that staff has discussed potential programs regarding the sheep. The Forest Service is very interested in having the informational programs. Discussion also noted that the cheat grass started growing due to the warm weather. The sheep, however, are not ready to be placed on the hillsides. The Forest Service cannot bring in the water tanks until the 24th. Depending on the environment, the sheep may arrive on the 28th. They will be removed when they stop eating the grasses. The grasses include both perennial species as well as cheat grass. Mayor Teixeira thanked her for the report and welcomed the sheep. No formal action was required or taken.

**B. ACTION TO APPROVE THE OPEN SPACE WORK PROGRAM CONTAINING PROJECTS AND OPEN SPACE ACQUISITION PRIORITIES FOR CALENDAR YEAR 2007 (9:55:03)** - Mr. Guzman's introduction included an indication of items which will be brought to the Board in the future. Mayor Teixeira requested that a report covering the ten years of activities, acquisitions, costs,