



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** June 4, 2020

Staff Contact: Hope Sullivan, AICP, Planning Manager

Agenda Title: For Possible Action: Discussion and possible action regarding an appeal of the Planning Commission's decision to amend the conditions of approval of a special use permit for an asphalt plant and aggregate crushing facility known as Tahoe Western Asphalt zoned General Industrial, located at 8013 Highway 50 East, APN 008-611-35. (Hope Sullivan, hsullivan@carson.org)

Staff Summary: In accordance with CCMC 18.02.060, the appellant is appealing the February 26, 2020 decision of the Planning Commission concerning its amendment to conditions of approval related to a Special Use Permit (SUP) for an asphalt plant and aggregate crushing facility. More specifically, the appellant is requesting that the Board of Supervisors: (1) remove the November 20, 2019 SUP requirement that the facility use a regenerative thermal oxidizer; (2) remove the SUP requirement that odors not be detectable beyond the property line of the facility, and replace that requirement with alternative language; (3) remove the SUP condition concerning code enforcement monitoring; (4) find that the use of Ecosorb is effective in mitigating odor emitted from the facility; (5) remove the SUP requirement that a lighting specification must be provided at the time of building permit application; and (6) allow the facility to operate at night and on Sundays, up to 30 times per calendar year.

Agenda Action: Formal Action / Motion **Time Requested:** 60 Minutes

Proposed Motion

I move to deny the appeal and uphold the decision of the Planning Commission.

Board's Strategic Goal

Quality of Life

Previous Action

At its meeting of February 26, 2020, the Planning Commission conducted a public hearing relative to the one-year review of the subject special use permit (SUP-10-115-2) and voted 7 – 0 to modify the conditions of approval relative to hours of operation and odors.

At its meeting of February 6, 2020, the Board of Supervisors considered an appeal of the Planning Commission's November 19, 2019 decision, and voted 5-0 to refer the item back to the Planning Commission based on new information that became known after the Planning Commission's action.

At its meeting of November 19, 2019, the Planning Commission conducted a public hearing relative to the one year review of the subject special use permit (SUP-10-115-2), and voted 7 – 0 to modify the conditions of approval relative to hours of operation and methods to suppress odors.

Background/Issues & Analysis

Please see the attached Memorandum dated May 20, 2020 from the Planning Manager to the Board of Supervisors.

Attachments:

May 20, 2020 Memorandum from the Planning Manager
February 26, 2020 Planning Commission Notice of Decision
March 9, 2020 appeal email from Robert Matthews with attachments
May 12, 2020 Letter supplementing the appeal from Simons Hall Johnston
February 19, 2020 Memorandum from the Planning Manager to the Planning Commission with Attachments
Late material provided to the Planning Commission at its February 26, 2020 meeting
Minutes of the February 26, 2020 Planning Commission meeting
Minutes of the February 6, 2020 Board of Supervisors meeting
Minutes of the November 19, 2019 Planning Commission meeting
November 19, 2019 Report to the Planning Commission with Attachments and late material

Applicable Statute, Code, Policy, Rule or Regulation

CCMC 18.02.050 (Reviews), 18.02.060 (Appeals) and 18.02.080 (Special Use Permits)

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted? No

Explanation of Fiscal Impact:

Alternatives

Approve the appeal and deny the modifications to the special use permit or modify the conditions of approval if appropriate.

Attachments:

[TWA Appeal Memo.pdf](#)

[February 26 Planning Commission Notice of Decision.pdf](#)

[March 9, 2020 appeal email from Robert Matthews with attachments.pdf](#)

[May 12, 2020 Letter supplementing the appeal from Simons Hall Johnston.pdf](#)

[February 19, 2020 Memorandum from the Planning Manager to the Planning Commission with Attachments.pdf](#)

[Minutes of the February 26, 2020 Planning Commission meeting.pdf](#)

[Minutes of the February 6, 2020 Board of Supervisors meeting.pdf](#)

[Minutes of the November 19, 2019 Planning Commission meeting.pdf](#)

[November 19, 2019 Report to the Planning Commission with Attachments and late material.pdf](#)

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)



Carson City Planning Division

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
planning@carson.org
www.carson.org/planning

MEMORANDUM

Board of Supervisors Meeting of June 4, 2020

TO: Planning Commission

FROM: Hope Sullivan, AICP
Planning Manager

DATE: May 20, 2020

SUBJECT: SUP-10-115-2 For Possible Action: Discussion and possible action regarding an appeal of the Planning Commission's decision to amend the conditions of approval of a special use permit for an asphalt plant and aggregate crushing facility known as Tahoe Western Asphalt zoned General Industrial, located at 8013 Highway 50 East, APN 008-611-35.

Summary: In accordance with CCMC 18.02.060, the appellant is appealing the February 26, 2020 decision, an amendment of the November 19, 2019 decision, of the Planning Commission concerning its amendment to conditions of approval related to a Special Use Permit (SUP) for an asphalt plant and aggregate crushing facility. More specifically, the appellant is requesting that the Board of Supervisors: (1) remove the November 19, 2019 SUP requirement that the facility use a regenerative thermal oxidizer; (2) remove the SUP requirement that odors not be detectable beyond the property line of the facility, and replace that requirement with alternative language; (3) remove the SUP condition concerning code enforcement monitoring; (4) find that the use of Ecosorb is effective in mitigating odor emitted from the facility; (5) remove the SUP requirement that a lighting specification must be provided at the time of building permit application; and (6) allow the facility to operate at night and on Sundays, up to 30 times per calendar year.

Background

On January 26, 2011, the Planning Commission approved a Special Use Permit for an asphalt plant and aggregate crushing facility on the subject property. In October 2018, the Planning Commission approved an amendment to the Special Use Permit. As part of that approval, the Planning Commission requested to review the Special Use Permit in one year to determine the adequacy of the conditions of approval. At its meeting of November 19, 2019, the Planning Commission conducted its one-year review, found the conditions to be inadequate to meet the findings, and modified the conditions. The applicant appealed the Planning Commission decision to the Board of Supervisors. The Board of Supervisors considered the appeal at its meeting of February 6, 2020 and referred the matter back to the Planning Commission for consideration of new information. At its meeting of February 26, 2020, the Planning Commission conducted a public hearing, and modified Condition 17 to replace the requirement for a regenerative thermal oxidizer with "The operation of the facility shall require that odors are not detectable beyond the property line," and added Condition 19 to require staff monitoring for odors a minimum of three times a month, with a requirement that if the odors are observed three times in the residential area of Moundhouse, the Special Use Permit will be scheduled for review at the next available Planning Commission meeting.

The applicant is appealing the February 26, 2020 action of the Planning Commission, identifying the following six items:

1. Remove the November 20, 2019 condition regarding a Regenerative Thermal Oxidizer;
2. Remove the requirement that odors are not detectable beyond the property line;
3. Remove the requirement for code enforcement monitoring;
4. Find that EcoSorb is effective in mitigating odor;
5. Remove the requirement for a lighting specification at the time of building permit application; and
6. Allow the facility to operate at night and on Sundays, up to 30 times per calendar year.

This memo will address each of these six items.

1. Regenerative Thermal Oxidizer

At its meeting of February 26, 2020, the Planning Commission removed the requirement for a Regenerative Thermal Oxidizer (RTO) based on new information provided by staff that such equipment was not the correct equipment for a facility that is not kept “hot” all the time. As this condition of approval is no longer in effect, there is no reason to remove it.

Additionally, the appellant alleges that the requirement for the RTO was arbitrary and capricious and insinuates that the Planning Commission required the RTO in an effort to cause Tahoe Western Asphalt to go out of business. THIS IS NOT TRUE. The RTO was identified by staff at the Bureau of Air Quality Control of the Nevada Department of Environment Protection (NDEP) when City staff consulted with them regarding addressing odors at an asphalt plant. City staff reached out to NDEP staff as NDEP is experienced in working with and regulating asphalt plants. Upon receiving the new information regarding the efficacy of the RTO in this particular application, the Planning Commission removed the requirement for a RTO. The goal of the Planning Commission at all times has been to address odors in response to the findings required in CCMC 18.02.080.5.b:

*b. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and is compatible with and preserves the character and integrity of adjacent development and neighborhood or includes improvements or modifications either on-site or within the public right-of-way to mitigate development related to adverse impacts such as noise, vibrations, fumes, **odors**, dust, glare or physical activity.*

2. Odors Not Detectable Beyond the Property Line (condition #17)

At the February 26, 2020 Planning Commission meeting, the Commission received additional public comment regarding odors, and continued to discuss the issue of odors vis-à-vis the findings of fact, specifically finding b:

*b. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and is compatible with and preserves the character and integrity of adjacent development and neighborhood or includes improvements or modifications either on-site or within the public right-of-way to mitigate development related to adverse impacts such as noise, vibrations, fumes, **odors**, dust, glare or physical activity.*

The Planning Commission discussed that it needed to focus on performance standards in considering this finding as opposed to specifying equipment. The performance standard the Planning Commission established in Condition of Approval 17 is *“The operation of the facility shall require that odors are not detectable beyond the property line.”*

The Planning Commission is responsible for reviewing Special Use Permit applications against the findings of fact and identifying conditions necessary to make all seven required findings in the affirmative. The Commission has dealt with odors on other applications, most notably applications for marijuana cultivation and marijuana production. The following condition of approval has been applied to the following special use permits.

“The applicant shall maintain a ventilation and carbon filtration system at all times to prevent offensive odor discharge from the building that could impact the surrounding properties. Failure to maintain this system, as well as the detection of medical marijuana odors in the vicinity may result in citation and possible revocation of this Special Use Permit.”

SUP-14-080	condition of approval 22
SUP-15-003	condition of approval 34
SUP-15-012	condition of approval 39
SUP-15-013	condition of approval 36
SUP-15-026	condition of approval 39
SUP-15-027	condition of approval 36
SUP-15-052	condition of approval 39
SUP-15-093	condition of approval 35
SUP-15-175	condition of approval 41
SUP-16-036	condition of approval 40
SUP-16-038	condition of approval 42
SUP-16-039	condition of approval 43
SUP-16-040	condition of approval 43
SUP-18-132	condition of approval 29
SUP-18-147	condition of approval 29
SUP-19-118	condition of approval 17

The appellant has requested that the Condition 17, which contains a performance standard relative to odor, be rewritten to state *“TWA shall comply with the conditions of its air quality permit as required by the Nevada Division of Environmental Protection when practicable. TWA shall further use commercially available equipment for purposes of odor mitigation.”*

Staff would note that the proposed wording for Condition 17 was not requested at the Planning Commission meeting. Staff would further note that existing Condition of Approval 12 currently states *“The applicant shall comply with applicable requirements of NDEP Bureau of Air Pollution Control Air Quality Operating Permit, including days and hours of operation. The applicant shall also comply with applicable requirements for noise, odors, erosion, air pollution and dust control.”*

3. Remove Requirement for Code Enforcement Monitoring

In October 2018, the Planning Commission conducted a public hearing regarding an amendment to the subject Special Use Permit. In November 2019, the Planning Commission conducted a public hearing on the subject Special Use Permit as part of the one-year review. In February

2020, the Planning Commission conducted yet another public hearing on the subject Special Use Permit to hear new information that was not known at the November 2019 meeting. Condition of Approval 18 states that the Planning Commission will conduct another public hearing on the subject Special Use Permit in October 2020.

At every public hearing, the Planning Commission has received comments relative to odors. The Planning Commission included Condition of Approval 19 to ensure compliance of existing conditions as well as to have an objective data set when it reviews the Special Use Permit in October.

4. Find that EcoSorb is effective in mitigating odor;

As previously noted, the Planning Commission, in considering odors, deliberately avoided designing the asphalt plant, and/or directing what materials to utilize in the asphalt production operation. Rather it focused on identifying a performance standard. The removal of a requirement to utilize the EcoSorb was not based on an opinion relative to the efficacy, but rather was based on focusing on addressing odors through a performance standard.

5. Remove the requirement for a lighting specification at the time of building permit application; and

Condition of Approval 8 requires *“Details of the proposed light standards must be submitted with the building permit.”* This condition of approval has existed since the Special Use Permit was approved on January 26, 2011. The condition requires that if lighting is proposed or required, that the lighting specification be submitted with the building permit. This is done to ensure that any proposed lighting meets the City’s development regulations and design guidelines. This is a standard condition of approval for land uses that are not single family residential. The removal of this condition was not requested at the Planning Commission meeting and was not discussed by the Planning Commission.

6. Allow the facility to operate at night and on Sundays, up to 30 times per calendar year.

In amending the subject Special Use Permit in October 2018, the Planning Commission modified the hours of operation to allow the applicant to work at night and on Sundays up to 30 times in a calendar year. In that same October 2018 meeting, the Planning Commission included a Condition of Approval that the Special Use Permit would be reviewed in one year. This review was for the Planning Commission to determine if the findings could still be met with the modified conditions of approval.

In November 2019, the Planning Commission conducted a public hearing as a part of its one-year review. During the hearing, the Commission heard public comments indicating a lack of compliance with the hours of operation as well as regarding odors. At the conclusion of the public hearing, the Planning Commission voted to remove the allowance to work at night and on Sundays up to 30 times per calendar year. The applicant may operate Monday through Saturday from 6:00 AM – 6:00PM, with the equipment startup between 5:30 AM – 6:00 AM. Note this is still an expansion of hours when compared to the January 2011 approval which limited hours to Monday through Saturday from 7:00 AM to 6:00 PM.



Carson City Planning Division

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

PLANNING COMMISSION

February 26, 2020

NOTICE OF DECISION – SUP-10-115-2

Discussion and possible action regarding the one year review of the approval of a modification to a Special Use Permit on property zoned General Industrial, located at 8013 Highway 50 East, APN 008-611-35.

The Planning Commission conducted a public hearing on February 26, 2020, in conformance with City and State legal requirements and modified SUP-10-115-2 based on the required findings identified in Carson City Municipal Code 18.02.080, and subject to the following modified conditions of approval.

CONDITIONS OF APPROVAL:

Note the base language in these conditions are the conditions of approval approved on October 24, 2018 with SUP-10-115-2. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears bold with a strikethrough.

The following shall be completed prior to commencement of the use:

1. 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 will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.

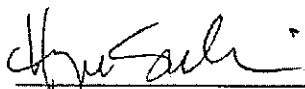
The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.
11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP Bureau of Air Pollution Control Air Quality Operating Permit, including days and hours of operation. The applicant shall also comply with applicable requirements for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from 6:00 a.m. to 6:00 p.m., Monday through Saturday, with gates open to customers only during these hours. Startup of equipment may occur between 5:30 AM to 6:00 AM. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. ~~The applicant may work at night or on a Sunday, other than on an emergency basis, up to 30 times in a calendar year. When work is to occur at night or on a Sunday (other than on the emergency basis), the operator shall advise the Community Development Director in writing at least 72 hours prior.~~ Nothing in this condition shall be construed as superseding any limitation on hours of operation put in place by NDEP.
14. A roof shall be installed and maintained over the truck loading chute area.
15. Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.
16. The vent condenser that has been installed must be maintained.
17. ~~The operator shall install and utilize a Regenerative Thermal Oxidizer Ecosorb in operations to suppress odors.~~ The operation of the facility shall require that odors are not detectable beyond the property line.
18. This Special Use Permit is subject to review in October 2020 one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.
19. City Code Enforcement staff will monitor off-site odors a minimum of three times a month and maintain a detailed log. The log will be presented to the Planning Commission at its October 2020 meeting. Notwithstanding this, if City Code Enforcement staff observes odors from the plant in the residential areas of Moundhouse three times, the review of the Special Use Permit will be scheduled for the next available Planning Commission meeting for review of the Special Use Permit.

This decision was made on a vote of 7 ayes, 0 nays, 0 absent.


Hope Sullivan, AICP
Planning Manager

Emailed on: 3/3/2020

By: Beseck

★ CLERK ★
FILED
Time 4:52 pm

MAR 03 2020

By Lena E Beseck
Deputy
Carson City, Nevada

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

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

OWNER/APPLICANT SIGNATURE

DATE

PLEASE PRINT YOUR NAME HERE

RETURN VIA:

Email to: lreseck@carson.org

Fax to: (775) 887-2278

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

Hope Sullivan

From: Robert Matthews <robert.matthews68@gmail.com>
Sent: Monday, March 9, 2020 1:38 PM
To: Hope Sullivan
Subject: L-JBC to Planning Division_12-2-19.pdf
Attachments: L-JBC to Planning Division_12-2-19.pdf; ATT00001.txt

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Plz use this as our appeal application! Thx

SIMONS · HALL · JOHNSTON

December 2, 2019

VIA EMAIL: Planning@carson.org

Original VIA: HAND-DELIVERY

Planning Division

108 E. Proctor Street

Carson City, Nevada 89701

RE: Tahoe Western Asphalt, LLC, APPEAL - Notice of Decision – SUP-10-115-2

Dear Planning Division:

This law firm has been retained to represent Tahoe Western Asphalt, LLC (“TWA”) with respect to its appeal of the November 20, 2019 Notice of Decision – SUP-10-115-2. Following a review of the issues and the Notice of Decision, the Carson City Planning Division (the “Commission”) has reached an arbitrary, capricious and wholly unreasonable result in light of the facts and circumstances. This letter will set forth the factual and legal bases for TWA’s appeal. Therefore, TWA respectfully requests the Commission carefully considers the points and authorities as outlined herein and reverses its November 20, 2019 Notice of Decision.

As an initial matter, the subject matter and ultimate decision of the November 19, 2019 meeting is the product of a personal vendetta against TWA by a small group of neighboring homeowners.¹ Indeed, Robert Matthews, TWA’s owner, has been informed that approximately 10 activist homeowners are responsible for over 200 complaints against TWA to the Nevada Division of Environmental Protection (“NDEP”) and to the Commission over the past twelve months. Their subjective grievances act as pretext towards creating onerous financial and administrative barriers in order to prevent TWA from lawfully operating its asphalt plant. As will be more fully explained below, the Commission should not bend to the subjective desires of a few homeowners and at the same time deny TWA its constitutional right to engage in lawful commerce.

¹ Please see the Declaration of Robert Matthews in support of this appeal, attached hereto as **Exhibit 1**.

SPECIFIC ASPECTS OF THE DECISION BEING APPEALED:

1. The Division's finding that Ecosorb is not effective is erroneous.

TWA understands that the Commission reached a factual finding that Ecosorb is not effective. There is very little information contained in the Notice of Decision detailing how or why the Commission found Ecosorb "not to be effective." However, if based on public comment, the Commission's finding is not based on objective scientific evidence but is rather founded upon the subjective complaints of a few nearby residents. It bears repeating that the Special Use Permit ("SUP") called for Ecosorb to be used as an odor suppressor, not an odor eliminator. Thus, the complaining neighbors are seeking to hold TWA to a standard (odor elimination) that can never be obtained even if a costly regenerative thermal oxidizer is installed.

In addition, Ecosorb has performed as advertised. Not only has TWA fully complied with EPA and NDEP regulations during the entire period of review, but NDEP's multiple odor tests with a nasal ranger indicate that Ecosorb successfully reduced odors by at least 75%.² It follows that contrary to the Commission's finding, the evidence conclusively demonstrates Ecosorb has been and continues to be an outstanding and effective odor suppressor. Therefore, because the Commission's findings are based on biased public comment and run contrary to objective scientific evidence, the Commission's finding that Ecosorb is ineffective at suppressing odors is arbitrary and capricious.

2. The reduction of TWA's operating hours and new light requirements are arbitrary and capricious.

TWA suspects the same neighbors that have complained of phantom odors are also complaining of noise and/or light pollution. As identified above, these complaints should be viewed with a skeptical eye as these neighbors are finding any and every excuse to lodge complaints against TWA to every administrative agency who will listen. The Commission should therefore pursue objective indications of noise and/or light pollution.

TWA believes that if the Commission disregards the neighbors' exaggerations, the Commission will likely find that light and noise regulations are completely unwarranted. In light of TWA's total compliance with its SUP, there is no basis to

² NDEP has agreed to provide: (1) its odor test results; and (2) an opinion letter regarding TWA's compliance with NDEP's regulations and Nevada's environmental laws to this Commission for consideration. However, due to the short appellate timeframe, NDEP will need additional time to furnish this information. Accordingly, TWA reserves the right to supplement its Appeal.

impose light and/or operating hour reductions on TWA's SUP and the same constitute an arbitrary and capricious exercise of power by this Commission.

3. SUP Condition No. 17: Regenerative Thermal Oxidizer is unduly burdensome and unwarranted.

Based upon the neighbors' complaints, this Commission seeks to require TWA to replace one odor suppressant (Ecosorb) with a different, more expensive suppressant (regenerative thermal oxidizer). However, the cost of a regenerative thermal oxidizer renders this condition completely unattainable. With a price tag of approximately \$1,800,000 or more, most Nevada small businesses, including TWA, would be forced to close their doors.

Based on the foregoing discussion regarding the effectiveness of Ecosorb and the baseless neighbor complaints, imposing a \$1.8 million condition on TWA's SUP constitutes clear and unnecessary government overreach. Moreover, TWA has not been presented with any information that a regenerative thermal oxidizer is a superior odor suppressor to Ecosorb, let alone so vastly superior as to justify the exorbitant price tag. Simply put, forcing TWA to purchase and install the regenerative thermal oxidizer is a business destroying condition.

Furthermore, TWA is informed that the \$1.8 million proposed regenerative thermal oxidizer is being used in Fernley at a facility which is completely different from TWA. Indeed, Mr. Matthews was advised that the proposed regenerative thermal oxidizer was not made for, nor is it appropriate for, an asphalt plant. Thus, the regenerative thermal oxidizer condition is misplaced and should be reversed.

4. The Commission lacks authority under the Bylaws to amend TWA's SUP.

Following a review of the Commission's Bylaws, it is apparent that the Commission lacks the authority to hear complaints or unilaterally amend TWA's SUP. Similarly, TWA cannot locate any paragraph in the Bylaws which grants the Commission the authority to unilaterally impose more onerous conditions on TWA's SUP. This is particularly true since TWA has fully complied with the SUP. If TWA is mistaken with respect to the Bylaws, please point out the granting authority for TWA's review.

CONCLUSION

TWA does not wish to engage in endless quarrels with the Commission or TWA's neighbors. Instead, TWA desires to lawfully operate its asphalt plant, which asphalt is in short supply in Northern Nevada. TWA has demonstrated this desire by fully

complying with the conditions of its SUP and the environmental regulations enforced by NDEP and the EPA. Nonetheless, should the Commission ultimately deny TWA's appeal, TWA will have no choice but to challenge the decision by pursuing judicial remedies. Again, this is not TWA's preferred approach and TWA is open to looking at additional compromises. TWA requests this Commission consider the points and authorities outlined herein as well as the information which is forthcoming from NDEP.

Specifically, TWA respectfully requests the Commission reverse the following issues:

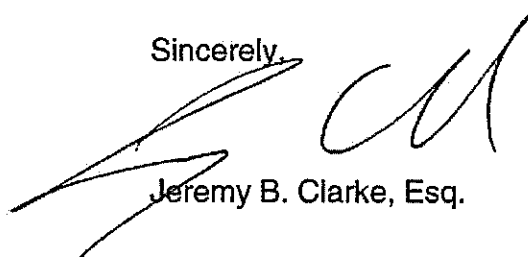
- A. Reverse its finding that Ecosorb is not effective;
- B. Reverse its decision that TWA must propose and install lighting with its building permit;
- C. Reverse its decision that TWA is no longer permitted to work at night or on Sundays up to 30 times per calendar year; and
- D. Reverse its decision that TWA must purchase and install a regenerative thermal oxidizer.

Lastly, TWA would like to thank the Commission for this opportunity to be heard on these critical issues. Pursuant to section 4(a) of the Procedures for filing an appeal, TWA's contact information is as follows:

Tahoe Western Asphalt, LLC, P.O. Box 21645 Carson City, NV 89721.
Robert Matthews (775) 309-7176, robert.matthews68@gmail.com.

Should you have any questions, please do not hesitate to contact me directly.

Sincerely,



Jeremy B. Clarke, Esq.

JBC/mn

cc: Robert Matthews

EXHIBIT 1

EXHIBIT 1

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

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DECLARATION OF ROBERT MATTHEWS

I, Robert Matthews, hereby declare as follows:

1. I am the owner of Tahoe Western Asphalt, LLC (“TWA”). I am over the age of 18 and I make this declaration under penalty of perjury under the laws of the United States and the State of Nevada. I could and would competently testify to the information this declaration contains.

2. This declaration is being submitted in support of TWA’s Appeal of the Carson City Planning Division’s November 20, 2019 Notice of Decision

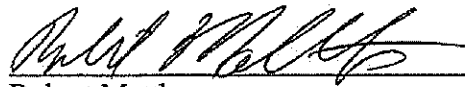
3. TWA is in compliance with and has complied with all Nevada Division of Environmental Protection regulations and directives.

4. TWA is in compliance with and has complied with all Carson City Planning Division regulations and directives.

5. The facts and assertions contained in the Appeal are true and correct to the best of my knowledge.

I, Robert Matthews, do hereby swear under penalty of perjury under the laws of the State of Nevada and the United States of America that the foregoing assertions are true and correct to the best of my knowledge.

DATED this 27 day of November, 2019.


Robert Matthews

SIMONS HALL JOHNSTON

May 12, 2020

VIA EMAIL: Planning@carson.org; hsullivan@carson.org; and bjohnson@carson.org

Carson City Board of Supervisors
Carson City Planning Division
108 E. Proctor Street
Carson City, Nevada 89701

RE: Tahoe Western Asphalt, LLC, APPEAL - Notice of Decision – SUP-10-115-2

Carson City Board of Supervisors and Planning Commission:

This law firm represents Tahoe Western Asphalt, LLC ("TWA") in its continuing appeal of the Planning Commission's improper actions related to TWA's Special Use Permit No. 10-115-2 ("SUP"). For purposes of this appeal, TWA incorporates by reference its December 2, 2019 Appeal correspondence and submits this correspondence, in addition to the minutes, previous letters and Planning Commission Memorandum dated February 26, 2020. This appeal is directed to the November 20, 2019 Notice of Decision, as well as the February 26, 2020 Notice of Decision, both issued by the Carson City Planning Commission.

I. FACTUAL BACKGROUND.

A. Initial Appeal.

TWA initially appealed the November 20, 2019 Notice of Decision wherein the Planning Commission arbitrarily and capriciously ordered TWA to install a \$1.8 million odor suppressant, a Regenerative Thermal Oxidizer ("RTO"). After the November 20, 2019 Notice of Decision and appeal, Planning Commission Staff ("Staff") researched RTO's and learned that an RTO is not the appropriate piece of equipment for TWA's asphalt plant. The impulsive decision to require TWA to install a RTO was, in effect, a business ending condition that was unsupported by any scientific or technical evidence.

At the Board of Supervisor's meeting on February 6, 2020 and following Staff's realization that the RTO requirement was an entirely inappropriate condition, Staff recommended the matter be referred back to the Planning Commission in order for Staff to provide the Planning Commission with additional information. The Board of Supervisors ("Board") took public comment from several vocal residents of Lyon County. TWA concurred with Staff's recommendation to refer the matter back to the Planning Commission for the express purpose of allowing the Planning Commission to

reconsider the capricious condition for implementation of a \$1.8 million RTO. Ultimately, the Board referred the matter back to the Planning Commission.

B. The February 26, 2020, Planning Commission Meeting.

On February 14, 2020, TWA submitted a letter to the Planning Commission which established that TWA has fully complied with the conditions of its SUP, was fully compliant with the NDEP and highlighted Staff's November 6, 2019, memorandum finding that, "given a lack of substantiated concerns, staff is not recommending any further action [regarding TWA's SUP]." TWA also submitted dozens of signatures from Carson City residents who indicated they had not experienced air quality issues.

During the February 26, 2020, Meeting, the Planning Commission was advised by Staff that the RTO was not the appropriate piece of equipment for TWA's facility. Despite having previously recommended the RTO, Staff further advised that it would no longer recommend equipment for TWA's facility as Staff lacked the technical and scientific expertise to make such recommendations. Recognizing its arbitrary and capricious error, the Planning Commission retracted the condition that TWA purchase and install a \$1.8 million RTO.

The Planning Commission again heard from Lyon County residents regarding alleged odors. It should be noted that in 2019, there were 226 complaints made to Carson City Code Enforcement. 95% of those complaints were made by five people residing in Mound House, Nevada. **100% of the complaints originated from outside of Carson City and outside of the Planning Commission's jurisdiction.** Compounding this error, the Commissioner Alex Dawers even stated on the record that the dozens of signatures from Carson City residents were "really inconsequential, just inconsequential" to the issues before the Planning Commission. See Audio Recording of February 26, 2020 Meeting, beginning at 2:45:00.

Commissioner Jay Wiggins cautioned the Planning Commission that it should not attempt to revoke TWA's SUP immediately or implement conditions without verifiable evidence from a third-party. See Audio Recording of February 26, 2020 Meeting, beginning at 3:03:00. Commissioner Wiggins further stated he did not support what appears to be the Planning Commission's goal of putting "the plant out of business" by implementing "some ridiculous conditions like we did," such as the RTO. These comments are extremely alarming in that they appear to be an admission that the Planning Commission is trying to shut TWA down by implementing abusive and ridiculous conditions.

Further, Commissioner Dawers openly confirmed that Planning Commission's goal is to shut TWA down. The written minutes from the February 26, 2020 meeting clearly demonstrate Commissioner Dawers' bias against TWA as well as his attempts to

shut TWA down "due to a health concern"¹ without the investigation starting, let alone concluding with objective evidence and findings. Indeed, while claiming to understand the legal ramifications of the investigation, Commissioner Dawers incredibly tried to convince the other Commissioners to shut down TWA's operations while the investigation was conducted. See February 26, 2020 Minutes, at p. 10 (7:58:30). Commissioner Dawers' ill-conceived recommendations show pretext for the Planning Commission's violations of TWA's due process and equal protection rights.

II. BASES FOR APPEAL.

A. RTO Condition.

TWA renews its appeal of the Planning Commission's November 20, 2019 Notice of Decision wherein TWA was ordered to purchase a \$1.8 million RTO. By reversing course on its recommendation for an RTO, the Planning Commission effectively admitted two points: (1) the RTO condition was arbitrary and capricious; and (2) the "ridiculous condition" had the effect of shutting TWA down. As a direct result of this condition, TWA incurred approximately \$10,000 in consulting and legal fees. TWA should be reimbursed for these costs which would not have been necessary but for the Planning Commission's arbitrary and capricious RTO condition. TWA will provide a breakdown of costs by supplement that resulted directly from this erroneous condition.

B. The February 26, 2020, Notice of Decision.

There are several issues which TWA hopes the Board will consider with respect to the most recent Notice of Decision. First, the Planning Commission has again implemented a condition which makes it impossible for TWA to operate while remaining in compliance with its SUP. Condition 17 originally required TWA use Ecosorb, to which TWA complied. Condition 17 was then modified to require the \$1.8 million RTO, which was rescinded by the Planning Commission. Condition 17 was again modified and now states, "[t]he operation of the facility shall require that odors are not detectable beyond the property line."

There is not a single odorless asphalt plant in the United States. TWA cannot reasonably erect an odor barrier along its property line solely to prevent gases from escaping. Further, it is undisputed that asphalt is widely used in construction/development and TWA's plant is zoned for industrial use. While TWA has gone to great efforts and expense to minimize the odors emanating from its plant, TWA cannot control

¹ See Audio Recording of February 26, 2020 Meeting, beginning at 2:47:00. Commissioner Dawers appears to be making up reasons to shut TWA down. There is no evidence in the record suggesting odors from TWA's plant cause health problems.

the wind or other atmospheric conditions which may carry normal odors beyond its property line.

Condition 17 is also contrary to Commissioner Wiggins' statement that the Planning Commission should not implement "ridiculous conditions" which actually act as a revocation of TWA's SUP. As written, if odors are detected past TWA's property line three (3) times, the Planning Commission is permitted "review" the SUP and revoke the same. This condition is similarly arbitrary because TWA has no control over the wind and whether its odors are pushed beyond TWA's property line.

Further, the decision to limit odors to TWA's boundary line also treats TWA differently than all other residents of Carson City. TWA should be treated no different than any other person or business having a fire in a wood stove or back yard barbeque with odors emanating therefrom. TWA is further unaware of any other business whose SUP was modified by the Planning Commission as a result of odors that do not directly impact Carson City at all.

In addition, the Planning Commission is improperly governing air quality beyond its authority as set forth in Section 180.0.007 of the Carson City Municipal Code. In fact, the Planning Commission has no authority whatsoever to govern air quality in Carson City, let alone Lyon County. This function belongs to the Bureau of Air Quality Planning with Nevada Division of Environmental Protection (the "NDEP"). Yet, the Planning Commission, via Condition 19, is ordering its City Code Enforcement staff to enter into Lyon County (the residential areas of Mound House, which is not TWA's property line), and report on whether odors are present therein.

Perhaps most important, the Planning Commission completely ignored the signatures from Carson City residents and based the entirety of its actions on complaints that originate outside of Carson City. Commissioner Borders even raised this jurisdiction defect when he told the residents of Mound House to "voice their complaints when they encounter odors" to Lyon County. See February 26, 2020 Minutes, at p. 11 (8:29:48). Consequently, because TWA has not created a nuisance in Carson City, the Planning Commission cannot take curative action for an alleged nuisance that does not exist in Carson City.

As far as the Planning Commission and Board of Supervisors should be concerned, TWA has complied with every condition of its SUP and there has not been a single complaint from a resident of Carson City. Thus, the air quality issue should be handled by the proper authority, the NDEP.

III. CONCLUSION.

The Planning Commission has badly mishandled TWA's SUP and has created multiple issues that are ripe for a constitutional challenge. TWA hopes the Board will curtail the arbitrary and capricious conduct of the Planning Commission and that TWA will not be forced to seek remedies beyond this appeal. TWA has complied with its SUP and is currently working with the NDEP to revise its air quality permit. Moreover, TWA does not wish to engage in endless quarrels with the Planning Commission or its neighbors. Rather, TWA desires to lawfully operate its asphalt plant without unnecessary and unlawful interference from the Planning Commission.

The Board must determine how it will address complaints from residents of Lyon County. Will the Board also entertain air quality complaints from Washoe County or Clark County? It seems logical that the Board and Planning Commission should devote their time, energy and public resources to issues affecting Carson City residents, rather than residents of a neighboring county. Because the Mound House residents lack standing to even make complaints to Carson City officials, TWA's SUP should not be affected or amended to remedy these issues.

Based on the foregoing points and authorities, TWA respectfully requests the Board of Supervisors take the following actions:

- A. February 26, 2020 Notice of Decision – Revise Condition 17 of the SUP to read:

TWA shall comply with the conditions of its air quality permit as required by the Nevada Division of Environmental Protection when practicable. TWA shall further use commercially available equipment for purposes of odor mitigation.

- B. February 26, 2020 Notice of Decision – Remove Condition 19 in its entirety and instruct city enforcement staff to conduct normal enforcement activities.

With respect to the November 20, 2019 Notice of Decision, TWA respectfully requests the Board take the following action.

- C. November 20, 2019 Notice of Decision – Reverse its finding that Ecosorb is not effective.
- D. November 20, 2019 Notice of Decision – Reverse its decision that TWA must propose and install lighting with its building permit.

Carson City Board of Supervisors
Carson City Planning Division
May 12, 2020
Page 6

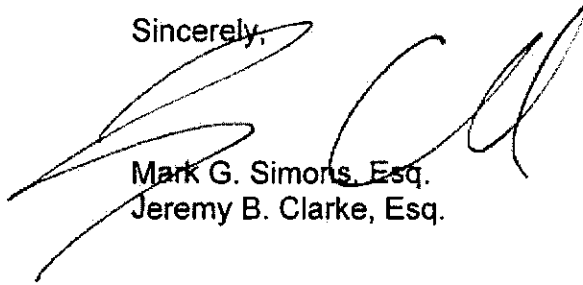
- E. November 20, 2019 Notice of Decision – Reverse its decision that TWA is no longer permitted to work at night or on Sundays up to 30 times per calendar year.

Lastly, TWA would like to thank the Board for this opportunity to be heard on these critical issues. Pursuant to section 4(a) of the Procedures for filing an appeal, TWA's contact information is as follows:

Tahoe Western Asphalt, LLC, P.O. Box 21645 Carson City, NV 89721.
Robert Matthews (775) 309-7176, robert.matthews68@gmail.com.

Should you have any questions, please do not hesitate to contact me directly.

Sincerely,

Handwritten signature in black ink, appearing to be a cursive signature of Mark G. Simons, Esq. and Jeremy B. Clarke, Esq.

Mark G. Simons, Esq.
Jeremy B. Clarke, Esq.

MGS/JBC/cmb
cc: Robert Matthews



Carson City Planning Division

108 E. Proctor Street
Carson City, Nevada 89701
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planning@carson.org
www.carson.org/planning

MEMORANDUM

Planning Commission Meeting of February 26, 2020

TO: Planning Commission

Item E-6

FROM: Hope Sullivan, AICP
Planning Manager

DATE: February 19, 2020

SUBJECT: SUP-10-115-2 For Possible Action: Discussion and possible action regarding the review of a Special Use Permit for an asphalt plant and aggregate crushing facility on property zoned General Industrial, located at 8013 Highway 50 East, APN 008-611-35.

***Summary:** On January 26, 2011, the Planning Commission approved a Special Use Permit for an asphalt plant and aggregate crushing facility on the subject property. In 2018, the Planning Commission approved an amendment to the Special Use Permit. As part of that approval, the Planning Commission requested to review the Special Use Permit in one year to determine the adequacy of the conditions of approval. At its meeting of December 17, 2019, the Planning Commission conducted its one-year review, found the conditions to be inadequate to meet the findings, and modified the conditions. The applicant appealed the Planning Commission decision. Since the Planning Commission December 17, 2019 meeting, the staff has identified new information that it would like to present to the Planning Commission as part of its review of the Special Use Permit. The Planning Commission will conduct a public hearing, and may modify the existing conditions of approval of the Special Use Permit as necessary to meet the required findings of fact.*

Recommended motion:

"I move to modify Condition 17 of the Conditions of Approval voted on by the Planning Commission at its meeting of November 19, 2019 to restore it to the condition of approval established on October 24, 2018 to state "The operator shall utilize Ecosorb in operations to suppress odors." and to add Condition 20 to state "City Code Enforcement staff will monitor off-site odors a minimum of three times a month, and maintain a detailed log. The log will be presented to the Planning Commission at its October 2020 meeting. Notwithstanding this, if City Code Enforcement staff observes odors from the plant in the residential areas of Moundhouse three times, the review of the Special Use Permit will be scheduled for the next available Planning Commission meeting for review of the Special Use Permit."

Noticing

On February 7, 2020, notice of the public hearing was mailed to 101 property owners within 7500 feet of the subject property. This notice also appeared in the newspaper, on bulletin boards throughout the City, and on the City's and State's websites.

On February 7, 2020, a letter was hand delivered to Robert Matthews of Tahoe Western Asphalt advising him that this item would be before the Planning Commission at its meeting of February 26, 2020. The same letter was emailed to Mr. Matthews and his attorney on February 7, 2020.

Information Since the November 19, 2019 Meeting

Since the meeting of November 19, 2019, the business owner has filed an appeal of the Planning Commission's decision. At its meeting of February 6, 2020, the Board of Supervisors considered the appeal and, in accordance with the recommendation of staff, referred the matter back to the Planning Commission to give staff the opportunity to provide the Planning Commission with additional information.

Since the meeting of November 19, 2019, City staff has followed up with the staff at the City of Fernley, NV as well as toured the Marathon Petroleum Company facility in Fernley. The City Manager in Fernley verified the information that City staff learned from Nevada Department of Environmental Protection (NDEP) staff. Essentially, the odors from the Fernley plant were overwhelming, the plant installed new equipment (the Regenerative Thermal Oxidizer), and the odors have been substantially eradicated.

On January 9, 2020, City staff met with the manager, and toured the Marathon Petroleum Company facility in Fernley. During this visit, the manager explained that the Regenerative Thermal Oxidizer was the correct equipment for the facility as the facility makes a binder, and is "hot" at all times. This is in contrast to a plant like Tahoe Western Asphalt where the plant is "heated up" when there is an order for asphalt, but is not maintained in a "hot" state at all times. Therefore, staff is no longer recommending the incorporation of a regenerative thermal oxidizer.

Staff cannot recommend how the asphalt plant should be designed and operated. Staff has reached out to other professionals with experience working with asphalt plants to try to understand how to address the odors. The answer is not easy, and it is up to the operator to determine how to design and operate the facility. Rather, staff recommends that the conditions of approval focus on performance criteria. With respect to odors, it is very difficult to identify measures. Therefore, the staff is recommending that between now and the Planning Commission meeting of October 2020, City code enforcement staff visit the residential areas in Moundhouse at least three times a month to determine if there are odors from the asphalt plant. A log will be maintained and provided to the Planning Commission at its October 2020 meeting. If code enforcement observes the odors in the area three times, the Special Use Permit will be scheduled for the next available Planning Commission meeting.

In terms of on-going Code Enforcement, between November 6, 2019 and February 13, 2020, code enforcement has received nineteen complaints, 17 were odor related and 2 were related to hours of operation. Code Enforcement staff visited Moundhouse twice during this time period, and did not detect any odors.

Staff in Lyon County is not aware of any complaints / issues related to Tahoe Western Asphalt since November 6, 2019.

A December 4, 2019 letter from the Chief of the Bureau of Air Pollution Control of NDEP states that Tahoe Western Asphalt's Air Quality Operating Permit is in good standing.

In a February 14, 2020 letter from Jeremy Clarke, representative for Tahoe Western Asphalt (TWA), Mr. Clarke writes "TWA is implementing new equipment which will help the plant run

cleaner and more efficient. These changes will also reduce emissions and any perceived odors. TWA is in the process of drafting the plans with its consultants, which will then be submitted to the NDEP for approval.”

On February 18, Robert Matthews of Tahoe Western Asphalt sent a series of graphics to NDEP and to the City, seemingly proposing to add the equipment to the existing systems. NDEP acknowledged receipt of the diagrams, and requested additional information.

Conclusion

Based on new information, staff can no longer recommend the inclusion of the regenerative thermal oxidizer. Staff finds that with respect to odors, a performance measure that odors be controlled is appropriate. The means of determining the adequacy of the odor control is for code enforcement staff to visit the residential areas that are experiencing the odors and determine if the odor can be independently observed.

Attachments:

1. Planning Commission November 18, 2019 Notice of Decision – SUP-10-115-2.
2. Memorandum dated November 6, 2019 from the Planning Manager to the Planning Commission with attachments and late material.
3. Email dated November 19, 2019 from the Supervisor of the Compliance Branch of the Bureau of Air Pollution Control NDEP to the Planning Manager.
4. December 4, 2019 letter from the Chief of the Bureau of Air Pollution Control NDEP to Robert Matthews.
5. Memorandum dated February 13, 2020 from Code Enforcement to the Planning Manager.
6. Email dated February 14, 2020 from Lyon County Senior Planner to the Planning Manager.
7. Email dated February 18, 2020 from Robert Matthews to Planning Manager including diagrams of equipment.
8. Email dated February 18, 2020 from NDEP staff to Robert Matthews commenting on diagrams.
9. Petition submitted by TWA.
10. Letter dated February 14, 2020 from Jeremy Clarke, Simons Hall Johnston representing TWA to the Planning Commission.
11. Email dated February 14, 2020 from NDEP Compliance Inspector to the Planning Manager.
12. Approved Meeting Minutes from Planning Commission meeting of November 19, 2019.



Carson City Planning Division

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

★ CLERK ★
FILED
Time 3:05 pm

NOV 20 2019

PLANNING COMMISSION
November 18, 2019

By Lena E. Beech
Deputy
Carson City, Nevada

NOTICE OF DECISION – SUP-10-115-2

Discussion and possible action regarding the one year review of the approval of a modification to a Special Use Permit on property zoned General Industrial, located at 8013 Highway 50 East, APN 008-611-35.

The Planning Commission conducted a public hearing on November 19, 2019, in conformance with City and State legal requirements and modified SUP-10-115-2 based on the required findings identified in Carson City Municipal Code 18.02.080, and subject to the following modified conditions of approval.

CONDITIONS OF APPROVAL:

Note the base language in these conditions are the conditions of approval approved on October 24, 2018 with SUP-10-115-2. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears bold with a strikethrough.

The following shall be completed prior to commencement of the use:

1. 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 will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.

The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.
11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP Bureau of Air Pollution Control Air Quality Operating Permit, including days and hours of operation. The applicant shall also comply with applicable requirements for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from 6:00 a.m. to 6:00 p.m., Monday through Saturday, with gates open to customers only during these hours. Startup of equipment may occur between 5:30 AM to 6:00 AM. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. ~~The applicant may work at night or on a Sunday, other than on an emergency basis, up to 30 times in a calendar year. When work is to occur at night or on a Sunday (other than on the emergency basis), the operator shall advise the Community Development Director in writing at least 72 hours prior.~~ Nothing in this condition shall be construed as superseding any limitation on hours of operation put in place by NDEP.
14. A roof shall be installed and maintained over the truck loading chute area.
15. Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.
16. The vent condenser that has been installed must be maintained.
17. The operator shall install and utilize a Regenerative Thermal Oxidizer Ecosorb in operations to suppress odors.
18. This Special Use Permit is subject to review in October 2020 one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.

This decision was made on a vote of 7 ayes, 0 nays, 0 absent.



Hope Sullivan, AICP
Planning Manager

HS:lr

Emailed on: _____

HANA DELIVERED

By: _____

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

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

OWNER/APPLICANT SIGNATURE

DATE _____

PLEASE PRINT YOUR NAME HERE

RETURN VIA:

Email to: planning@carson.org

Fax to: (775) 887-2278

Mail to: Carson City Planning Division

108 E. Proctor St.

Carson City, NV 89701



Carson City Planning Division

108 E. Proctor Street
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MEMORANDUM

Planning Commission Meeting of November 19, 2019

TO: Planning Commission

Item E-8

FROM: Hope Sullivan, AICP
Planning Manager

DATE: November 6, 2019

SUBJECT: SUP-10-115-2: For Possible Action: Discussion and possible action regarding the one year review of the approval of a modification to a Special Use Permit for an Asphalt Plant on property zoned General Industrial, located at 8013 Highway 50 East, APN 005-611-35.

STAFF SUMMARY: At its meeting of October 24, 2018, the Planning Commission approved the modification of a Special Use Permit for an Asphalt Plant, specifically modifying the hours of operation. In approving this modification, the Planning Commission included a condition of approval mandating a review in one year. The condition further explains that in conducting the one year review, the Commission shall conduct a public hearing. Based on input received at the public hearing, the Commission may modify conditions of approval, or request staff to schedule additional reviews of the Special Use Permit.

Recommended motion:

No motion is proposed.

Noticing

On October 24, 2019, notice of the public hearing was mailed to 33 property owners within 7500 feet of the subject property. This notice also appeared in the newspaper, on bulletin boards throughout the City, and on the City's and State's websites.

On October 24, 2019, an email was sent to Robert Matthews of Tahoe Western Asphalt advising him of the public hearing.

On October 24, 2019, an email was sent to Lyon County, Nevada Senior Planner Robert Pyzel informing him of the public hearing.

On October 28, 2019, the Planning Manager spoke with Robert Matthews of Tahoe Western Asphalt and advised him of the public hearing.

Comments

Since the meeting of October 24, 2018, the City's Code Enforcement staff has received 99 complaints about the subject use. Ninety eight of the complaints were about odors, and one complaint was in regard to hours of operation.

Based on complaints, Code Enforcement staff has documented visits to Mound House on six occasions. During one visit, there was no odor detected, during four visits there was a faint odor detected, and during one visit there was a strong odor detected. Staff contacted Mr. Matthews, the plant operator, the morning of the strong odor and Mr. Matthews advised the reason for the strong odor was that he was low on propane. This information is documented in a memorandum dated November 6, 2019 from William Kohbarger, Carson City Code Enforcement to the Planning Manager.

Nathan Rash, Compliance Officer with the Nevada Division of Environmental Protection, has advised that between October 24, 2018 and October 22, 2019, the Bureau of Air Pollution Control (BAPC) has received 127 complaints, all odor complaints. Although strong odors and opacity has been observed, the source has been intermittent and the threshold for a violation has not been met.

In an October 24, 2019 email, Lyon County Senior Planner Rob Pyzel advised that Lyon County has not received any recent complaints from the Mound House community in regard to odors and smoke from Tahoe Wester Asphalt's facility.

Given a lack of substantiated concerns, staff is not recommending any further action.

Attachments:

- November 6, 2019 Memorandum from Code Enforcement to the Planning Manager
- October 22, 2019 email from Nathan Rash, Nevada Department of Environmental Protection.
- October 24, 2019 email from Robert Pyzel, Senior Planner, Lyon County, NV
- Executed Notice of Decision SUP-10-115-2
- Staff Report Dated October 24, 2018



Carson City Code Enforcement

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
codeenforcement@carson.org
www.carson.org/planning

MEMORANDUM

TO: Hope Sullivan, Planning Manager

FROM: William Kohbarger, Code Enforcement

DATE: November 06, 2019

SUBJECT: Tahoe Western Asphalt LLC
8025 Hwy 50 E

The following is a Code Enforcement summary of all the complaints, investigations and interactions involving Case #101162, Tahoe Western Asphalt LLC.

Pursuant to your request, I am providing information on this case from October 24, 2018 forward.

Number of Complaints: 99

Odor complaints = 98

Hours of operation = 1

Notice of Violations:

None

Visits to Mound House:

November 05, 2018 – faint odor detected;

April 26, 2109 – no odor detected;

August 01, 2019 – strong odor detected;

September 18, 2109 – faint odor detected;

September 20, 2019 – faint odor detected;

October 02, 2019 – faint odor detected.

The following paragraphs are an entry Code Enforcement Johnston placed into SWEEPS:

August 1, 2019 Code Enforcement Officer Johnston arrived to work and received 2 voice mail messages regarding a bad smell being emitted from the asphalt plant. I also received an email from Mr. Lucas with a photo of the plant operating.

At approximately 0930hrs, I performed a site visit to the Mound House Mobile Home Park area where all the complainants live. I arrived within the area and stopped at the intersection of Highlands and Traci streets. I easily identified an odor that is the smell of asphalt within the area. I continued to drive in the neighborhood and I was able to smell the same asphalt odor in

the upper Miriam St. area. I performed another drive through the neighborhood and smelled the same odor again within the same locations at the intersection of Highlands and Traci, Traci and Miriam and the entire Miriam St. After stopping and writing down the locations of the odor I went to observe the asphalt plant. I observed them operating from the water tank and took photos and video of the plant loading an A&K Earthmovers Truck with asphalt. I was sitting at a higher elevation than the plant and did not smell the asphalt odor. I did observe the wind was traveling East in the direction of the mobile home park being effected. I called and notified NDEP Supervisor Travis Osterhout.

I also notified Carson City Planning Manager Hope Sullivan who called Tahoe Western Asphalt Owner Mr. Mathews. Mr. Mathews stated he ran low of propane supply which makes his asphalt plant burn differently than from a normal supply. Mr. Mathews stated that is the reason why his operation has changed today. Ms. Sullivan also asked him if he has made any changes to his operation and he said no and he has been extremely busy with business. Ms. Sullivan asked him if he is still using and supplying the odor eliminating additive and he said yes. Mr. Mathews informed us that he has repaired the propane shortage and is back to normal operating procedures.

I called Mr. Lucas at approximately 0920hrs, and asked if he would be willing to meet at his house in about 25 minutes. Mr. Lucas agreed. As I was driving towards Mound House, I observed that Tahoe Western Asphalt was currently operating and emitting large plumes of white smoke or vapor from the plant. The smoke was coming from both the large tall cylinder tank and the asphalt plant loading tower. There was also quite a bit of dust coming from the N.E. aggregate mine within the property. As I drove East on HWY 50 passing the entrance to the asphalt plant and continued towards Mound House I also smelled what I recognized as burning asphalt. I entered the Lucas's mobile home housing complex and the smell became stronger. I drove through the housing complex to the Lucas's residence and observed the smell at the way to their house. The smell and odor was noxious and unpleasant. I met with Mr. Lucas who stated his concerns and described how he has had to tolerate the unbearable smell for over a year. I engaged in a long conversation with Mr. Lucas and his wife Judy. I explained to the both of them how asphalt is made, transported and how it is used to build roads. I also explained to them that the Carson City Code Enforcement Department has received all their complaints and documented everything regarding Tahoe Western Asphalt and their operations and violations. I told the Lucas's that our Departments have done everything we possibly can to ensure the company is in compliance with the CCMC's and have corrected their violations. I advised them that they do have the right to file a criminal complaint with the Carson City District Attorney's Office and they may do so with the NRS nuisance violation. I explained that I would not know which jurisdiction would be best and they may want to file a criminal complaint with the Lyon County DA's Office as well.

I instructed them that we will continue to take their complaints and document them for City public record and if we are able to take Code Enforcement action we would continue to do so.

Hope Sullivan

From: Nathan Rash <nrash@ndep.nv.gov>
Sent: Tuesday, October 22, 2019 7:57 AM
To: Hope Sullivan
Cc: Travis Osterhout
Subject: RE: please forward

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good morning Hope,

Since October 24, 2018 the BAPC has received 127 complaints regarding TWA originating from 17 unique parties (excluding those who wished to remain anonymous). Our official record lists all of these complaints as odor complaints but it is often the case that when I call or speak with the reporting party visible emissions are also a concern (often phrased as "smog", "smoke" or some variant thereof). The BAPC is in consistent contact with the reporting parties by telephone and most of the parties report odor as their primary concern followed closely by the health effects the facilities emissions may have on them.

The BAPC has made an effort to investigate as many of these complaints as possible, both directly responding to complaints as they are called in and by doing random checks of the Moundhouse Highlands neighborhood. During the timeframe in question, no violations were issued. Please note that this is not to say that odors and visible emissions were not observed. There has been several cases where a strong odor or elevated opacity was observed, but since both our odor and opacity regulations involve an averaging period and the nature of the source is intermittent, the threshold for a violation was not met.

I hope this helps. Should you require any further information or if I can be of any assistance please let me know.

Thank you,

Hope Sullivan

From: Rob Pyzel <rpyzel@lyon-county.org>
Sent: Thursday, October 24, 2019 12:21 PM
To: Hope Sullivan
Subject: Re: Tahoe Western Asphalt

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hope;
Thanks for the update. Glad you get a night off!
I asked the Code Enforcement Officer and County Manager if they had received any recent complaints from the Mound House community in regard to odors and smoke from Tahoe Western Asphalt's facility. They both indicated they had not. I also have not heard any recent complaints in regard to Tahoe Western Asphalt's facility west of Mound House.

Cheers,

Rob Pyzel, Planner
Lyon County Planning Department
(775) 246-6135; X-2473
rpyzel@lyon-county.org

Definition of caveat emptor: a principle in commerce: without a warranty the buyer takes the risk.

On Thu, Oct 24, 2019 at 11:48 AM Hope Sullivan <HSullivan@carson.org> wrote:

Rob:

Due to a noticing error, the Planning Commission meeting of October 30 is cancelled. The Planning Commission will perform the one year review on Tahoe Western Asphalt at its meeting of November 19, 2019. This item will not be heard before 5:30 PM.

Hope Sullivan, AICP

Planning Manager

Carson City, NV 89701

775-283-7922



Carson City Planning Division

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

★ CLERK ★
FILED

Time 12:46 pm

OCT 31, 2018

By T. Barre
Deputy
Carson City, Nevada

PLANNING COMMISSION
October 24, 2018

NOTICE OF DECISION – SUP-10-115-2

An application was received to consider a request to modify a Special Use Permit for an Asphalt Plant, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The subject property is zoned General Industrial, and is located at 8013 Highway 50 East, APN 008-611-35.

The Planning Commission conducted a public hearing on October 24, 2018, in conformance with City and State legal requirements and approved SUP-10-115-2 based on the findings contained in the staff report and subject to the following conditions of approval.

CONDITIONS OF APPROVAL:

Note the base language in these conditions are the conditions of approval approved on January 26, 2011 with SUP-10-115. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears with a strikethrough.

The following shall be completed prior to commencement of the use:

1. 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 will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.

The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.
11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP **Bureau of Air Pollution Control Air Quality Operating Permit, including days and hours of operation. The applicant shall also comply with applicable requirements** for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from ~~7:00~~ **6:00** a.m. to 6:00 p.m., Monday through Saturday, **with gates open to customers only during these hours. Startup of equipment may occur between 5:30 AM to 6:00 AM.** Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. **The applicant may work at night or on a Sunday, other than on an emergency basis, up to 30 times in a calendar year. When work is to occur at night or on a Sunday (other than on the emergency basis), the operator shall advise the Community Development Director in writing at least 72 hours prior. Nothing in this condition shall be construed as superseding any limitation on hours of operation put in place by NDEP.**
14. **A roof shall be installed and maintained over the truck loading chute area.**
15. **Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.**
16. **The vent condenser that has been installed must be maintained.**
17. **The operator shall utilize Ecosorb in operations to suppress odors.**
18. **This Special Use Permit is subject to review in one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.**

This decision was made on a vote of 5 ayes, 1 nays, 1 absent.



Hope Sullivan, AICP
Planning Manager

HS:lr

Emailed on: 10/31/2018 By: lr

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

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



OWNER/APPLICANT SIGNATURE

DATE 11-2-2018



PLEASE PRINT YOUR NAME HERE

RETURN VIA:

Email to: planning@carson.org
Fax to: (775) 887-2278
Mail to: Carson City Planning Division
108 E. Proctor St.
Carson City, NV 89701

STAFF REPORT FOR PLANNING COMMISSION MEETING OCTOBER 24, 2018

FILE NO: SUP-10-115-2

AGENDA ITEM: E.8

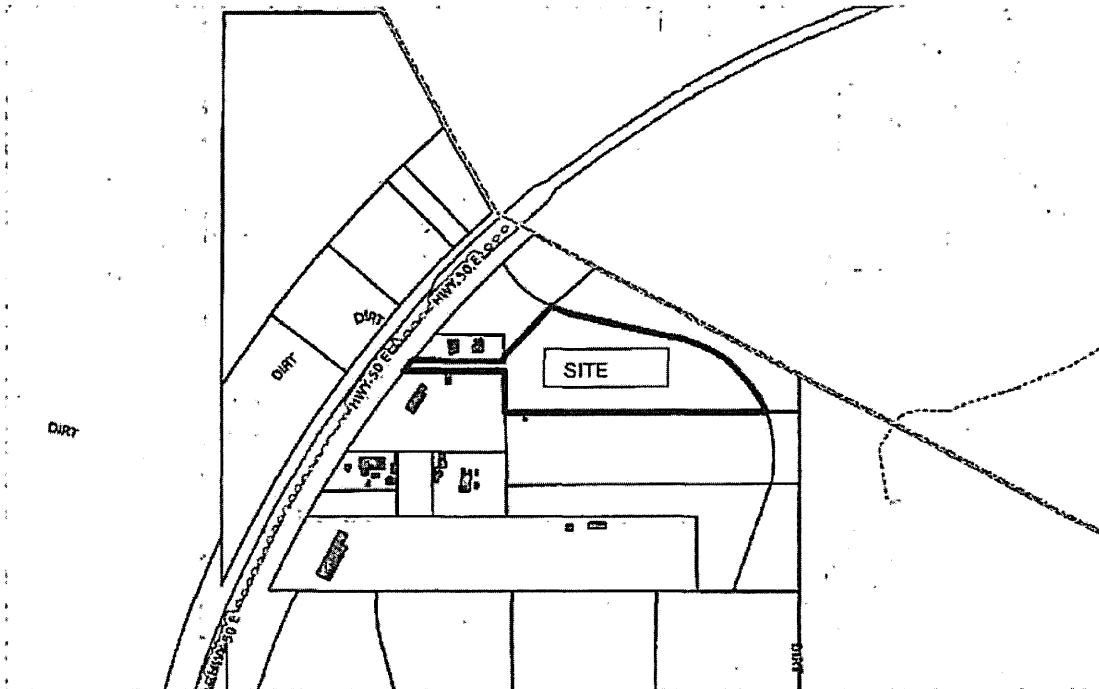
STAFF CONTACT: Hope Sullivan, Planning Manager

AGENDA TITLE: For Possible Action: To consider a request to modify a Special Use Permit for an Asphalt Plant, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The subject property is zoned General Industrial, and is located at 8013 Highway 50 East, APN 008-611-35. (Hope Sullivan, hsullivan@carson.org)

STAFF SUMMARY: On January 26, 2011, the Planning Commission approved a Special Use Permit for an asphalt plant and aggregate crushing facility on the subject property. That approval included a condition of approval that limited the hours of operation to Monday through Saturday, 7:00 AM – 6:00 PM. The applicant is now seeking to modify to the Special Use Permit to have expanded hours. The Planning Commission has the authority to modify a Special Use Permit.

RECOMMENDED MOTION: "I move to approve a request to modify Special Use Permit SUP-10-115-2, to modify the hours of operation based on the ability to make the seven required findings in the affirmative and subject to the recommended conditions of approval contained in the staff report."

VICINITY MAP:



RECOMMENDED CONDITIONS OF APPROVAL

Note the base language in these conditions are the conditions of approval approved on January 26, 2011 with SUP-10-115. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears with a strikethrough.

The following shall be completed prior to commencement of the use:

1. 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 will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.

The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.

11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from ~~7:00~~ 6:00 a.m. to 6:00 p.m., Monday through Saturday. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. The applicant may work at night or on a Sunday up to 30 times in a calendar year. When work is to occur at night or on a Sunday, the operator shall advise the Community Development Director in writing 72 hours prior.
14. A roof shall be installed and maintained over the truck loading chute area.
15. Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.
16. The vent condenser that has been installed must be maintained.
17. The operator shall utilize Ecosorb in operations to suppress odors.
18. This Special Use Permit is subject to review in one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.080 (Special Use Permits)

MASTER PLAN DESIGNATION: Mixed Use Commercial and Public Conservation,
Virginia & Truckee Railroad Gateway Specific Plan
Area.

ZONING DISTRICT: General Industrial

KEY ISSUES: Will the proposed hours of operation be compatible with adjacent land uses and properties?

SURROUNDING ZONING AND LAND USE INFORMATION

NORTH: General Industrial / Vacant V+T railroad tracks, Lyon County/Carson City boundary
SOUTH: General Industrial / Industrial Uses
EAST: General Industrial / Vacant V+T railroad tracks
WEST: General Industrial / Industrial Uses

SITE HISTORY

January 03, 1984 the Regional Planning Commission approved a Special Use Permit application, U-83-37 form Eagle Valley Construction to allow a portable rock crushing operation on site.

January 04, 1984 the Board of Supervisors reviewed and approved U-83-37.

January 22, 1985 the Regional Planning Commission reviewed the previously approved U-83-37 and indicated that there were no problems with the operation and continued approval.

January 23, 1985 the Board of Supervisors approved a review of the previously approved Special Use Permit U-83-37.

February 07, 1985 the Board of Supervisors approved the review of U-83-37.

August 25, 1994 a Special Use Permit U-94/95-123 was submitted to allow the extraction of materials and the installation and operation of a portable rock crusher for aggregate road base.

September 19, 1994 the Community Development Department determined that a new Special Use Permit was not required as long as the new operator is subject to the conditions of approval of Special Use Permit U-83-37.

September 19, 1994 the applicant of Special Use Permit SUP-94/95-13 submitted a request for a formal withdrawal of the Special Use Permit.

November 02, 2010 City staff conducted a Major Project Review of the proposed Far West Hybrid Asphalt Plant. At that time comments were provided to the applicant related to the proposed project.

November 17, 2010 the proposed project was presented to the Carson City Airport Authority. The Airport Authority voted to send its disapproval of the proposed wind turbine to the Board of Supervisors and the Planning Commission.

January 26, 2011 the Planning Commission approved a Special Use Permit for an Asphalt Plant and Aggregate Crushing Facility.

September 28, 2011 the Planning Commission approved a Special Use Permit to allow four 190 foot tall wind turbines on the property.

February 2, 2016 the Community Development Department found that the Special Use Permit for the aggregate and the batch plant operations was still valid.

March 15, 2016 a Major Project Review (MPR) meeting was conducted relative to the asphalt plan and crushing facility. At the meeting, applicant advised plans were not current, and MPR comments were not prepared.

ENVIRONMENTAL INFORMATION

FLOOD ZONE: Zone X

SLOPE/DRAINAGE: The site is primarily flat
SEISMIC ZONE: Zone II: Moderate

SITE DEVELOPMENT INFORMATION

PARCEL AREA: 10 Acres
EXISTING LAND USE: Asphalt plant

DISCUSSION:

Per Carson City Municipal Code (CCMC) 18.04.150, Asphalt Manufacturing is a Conditional Use in the General Industrial (GI) Zoning District. At its meeting of January 26, 2011, the Planning Commission approved Special Use Permit SUP-10-115 allowing for an asphalt plant and aggregate crushing facility on the subject property. The Special Use Permit was approved subject to conditions of approval, including:

13. *Operating hours are to be from 7:00 AM to 6:00 PM, Monday through Saturday. Operating on Sunday would be on an emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis.*

The applicant is seeking to modify the conditions of approval, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The applicant has advised staff that the expanded hours are necessary to meet customer demand, including anticipated demand from the South Carson Street project and improvements on Highway 50 from Stage Coach to Silver Springs. Staff cannot regulate who purchases the asphalt and where it is used. Therefore, staff recommends that the conditions of approval remain silent of whether the asphalt is being manufactured for a public project or a private project.

The process to modify the Special Use Permit is the same as obtaining a Special Use Permit. The Planning Commission conducts a public hearing, and is authorized to issue the modification to the Special Use Permit upon making each of the seven required finding of fact in the affirmative. The conditions of approval may change as necessary to make the required findings.

Although the Special Use Permit was approved in 2001, operations of the Asphalt Plant actually commenced on July 9, 2016. The Special Use Permit was still valid in 2016 as the aggregate crushing facility had commenced work within twelve months of approval of the Special Use Permit.

Since operations began in July 2016, there have been three notices of violation issued by the City's Code Enforcement staff for operating outside of approved operating hours. The notices of Violation cited starting work before 7:00 AM and working on Sunday.

The notices of violation were only issued in cases where Code Enforcement staff could validate the violation. Although only three notices were issued, between February 20, 2018 and September 26, 2018, fifty-six complaints were received. These complaints were primarily related to working outside of hours of operation and odors.

In addition to the City, the State's Department of Environment Protection (NDEP), specifically the Bureau of Air Pollution, has enforcement responsibility, specifically with respect to air quality and odors. In January 2017, NDEP cited the business for failing to notify NDEP of initial startup, and assessed fines of \$1,750. Between January 2017 and March of 2018, NDEP cited the business seven times for violations related to air quality, and assessed fines of \$61,055. NDEP only recently acquired equipment to test odors.

The applicant has provided four inspection reports dated June 14, 2018, August 15, 2018, September 18, 2018, and September 28, 2018 demonstrating compliance with NDEP's regulations. The applicant also provided visual inspection reports dated October 5, 2018.

Tahoe Western Asphalt, the business operator, has made modifications to operations since commencement in order to address air quality and odors. These modifications include:

- Adding a steel roof of the truck load chute area.
- Adding a vent condenser to the oil tank.
- Adding an econ burner analyzer for testing.
- Acquired an Ecosorb odor clarifier.
- Adding a complete water system for dust control over all plant systems.

The asphalt plant is located in an area that was previously known as the Tip Top Pit. It is also located in the Eastern Portal-Virginia & Truckee Railroad Gateway Specific Plan Area. The project site is located on a flat portion of the 26.93 acre site. Currently, aggregate is trucked to the site, and the asphalt is manufactured on the site.

When presented in 2011, staff report stated "Once fully functional the burner-less drum will dedicate a set amount of power to dry material, resulting in virtually no emissions. To power both the asphalt production and aggregate crushing operations, the applicant is proposing to produce its own power with the use of a General Electric 2.5 megawatt wind turbine. In addition to the electricity from the turbine, the plant will also utilize all the heat from the turbine's heat exchanger and the generation set to circulate heat through the bins. The machinery proposed for the asphalt production is a CMI SVM2000 Drum Mix Plant. The asphalt production will have two 150 ton silos that are proposed at 75 feet in height each which will also exceed the 45 foot height limit in the GI zoning district. The applicant will also utilize a mobile aggregate crushing system (MACS)." The staff report also noted that the plant would be powered by a Wind Energy Conversion System, with natural gas serving as a backup power source.

The specified equipment is not the equipment that is being utilized, and the plant is powered by propane.

The Planning Commission may approve the modifications to the Special Use Permit upon making each of the seven required findings in the affirmative. The applicant provided the finding utilized in the January 26, 2011 staff report to the Planning

Commission. Therefore, that report is included in its entirety as it was submitted by the applicant as part of his application.

PUBLIC COMMENTS: Public notices were mailed on September 28, 2018 to 101 property owners in the area. In Carson City, noticing went to 33 property owners within 7500 feet of the property. In Lyon County, noticing was provided based on input by Lyon County planning staff based on its understanding of property owners who would be potentially impacted. One comment in opposition has been received to date. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

OTHER CITY DEPARTMENT OR OUTSIDE AGENCY COMMENTS: The request for expanded hours was routed to various City agencies for comment. No City agencies had comments.

FINDINGS: Staff recommends approval of the expanded hours for the asphalt plant based the findings below, pursuant to CCMC 18.02.080 (Special Use Permits), subject to the recommended conditions of approval, and further substantiated by the applicant's written justification.

1. The use will be consistent with the objectives of the Master Plan elements.

Staff finds the proposed expanded hours will be consistent with the Master Plan, specifically noting the following.

Chapter 3: A Balanced Land Use Pattern

Establishing a balance of land uses within the community promotes vitality and long-term economic stability. A balanced community is able to provide employment opportunities for its residents as well as a diverse choice of housing, recreational opportunities, and retail services. Carson City strives to maintain its strong employment base and extensive network of public lands while increasing housing options and the availability of retail services to serve residents of the City and surrounding growth areas.

Chapter 5: Economic Vitality

Carson City derives its overall health and economic success from its ability to maintain a strong and diverse base of jobs, to provide a supply of varied housing choices for its employees, to provide a range of services and recreational opportunities for residents and visitors, and to generate tourism through the promotion of its unique characteristics and historic amenities. Furthermore, the City recognizes the revitalization of the Downtown as an important component of the community's long-term health and vitality. The Master Plan promotes the continued enhancement of the Downtown and surrounding residential neighborhoods as the focus of the community.

5.1c—Diverse Employment Opportunities

Promote diverse job options and entrepreneurial opportunities for persons interested in full-time or part-time employment or desiring to own their own business.

5.1d—Industrial Specializations

Identify, develop and enhance multiple industrial specializations. Improve opportunities for productive employment in key sectors, including, without limitation, those already present in Carson City.

(V&T-SPA) Land Use Policies

V&T SPA—1.1 Development Quality

Protect the scenic quality of the V&T experience with consideration given for the views from the train route as well as the terminal location by developing and adopting specific design standards for commercial development and public-use development within the V&T-SPA to protect the scenic quality of the V&T route.

The change in hours will not impact the scenic quality of the V & T experience.

V&T SPA—1.2 Zoning

Rezone the private lands in Carson City along Highway 50 East from General Industrial to a commercial designation consistent with the Master Plan Land Use Map.

The subject site is located in the General Industrial zoning district. The use has lawfully established. The request is to modify the hours of operation.

V&T SPA—1.3 View Corridors

Identify critical views of the landfill area from V&T route and adjacent commercial areas and mitigate visual impacts by plantings, screening or other methods around the landfill.

This goal is not applicable; due to the fact the use is not located in the area of the landfill.

V&T SPA—1.4 Compatibility with Adjacent Uses

Prohibit new uses on public lands within the V&T-SPA that would conflict with the V&T and related commercial-tourism in the vicinity, such as uses that generate excessive noise, dust or odors, excluding the continued operation of the landfill; and Consider limiting the use of public lands as part of any proposed disposal of the BLM property into Carson City ownership through a federal lands bill.

This goal is not applicable; due to the fact the use is not located on public lands.

V&T SPA—1.5 Drako Way Vicinity Land Use Change

The land use designation of the property in the vicinity of Drako Way, east of the V&T railroad alignment, shall be changed by Carson City from Industrial to Mixed-Use Commercial and/or Mixed-Use Residential upon removal of the old landfill identified on the site or with approved engineering controls in accordance with NDEP standards upon development of the property.

This goal is not applicable; due to the fact the use is not located in the immediate vicinity of Drako Way or east of the V & T railway alignment.

(V&T-SPA) Parks and Open Space Policies

V&T SPA—2.1 Trail Facilities

The Parks and Recreation will continue to work with the V&T Commission and V&T consultants in locating appropriate trail facilities along the Carson River corridor consistent with the V&T operation plans and the Unified Pathways Master Plan.

This goal is not applicable; due to the fact the use is not located along the Carson River corridor.

(V&T-SPA) Cultural and Environmental Resources Policies

V&T SPA—3.1 Carson River Corridor

Encourage continued cleanup and patrol of the Carson River corridor to protect the scenic resource through partnerships with public and private agencies.

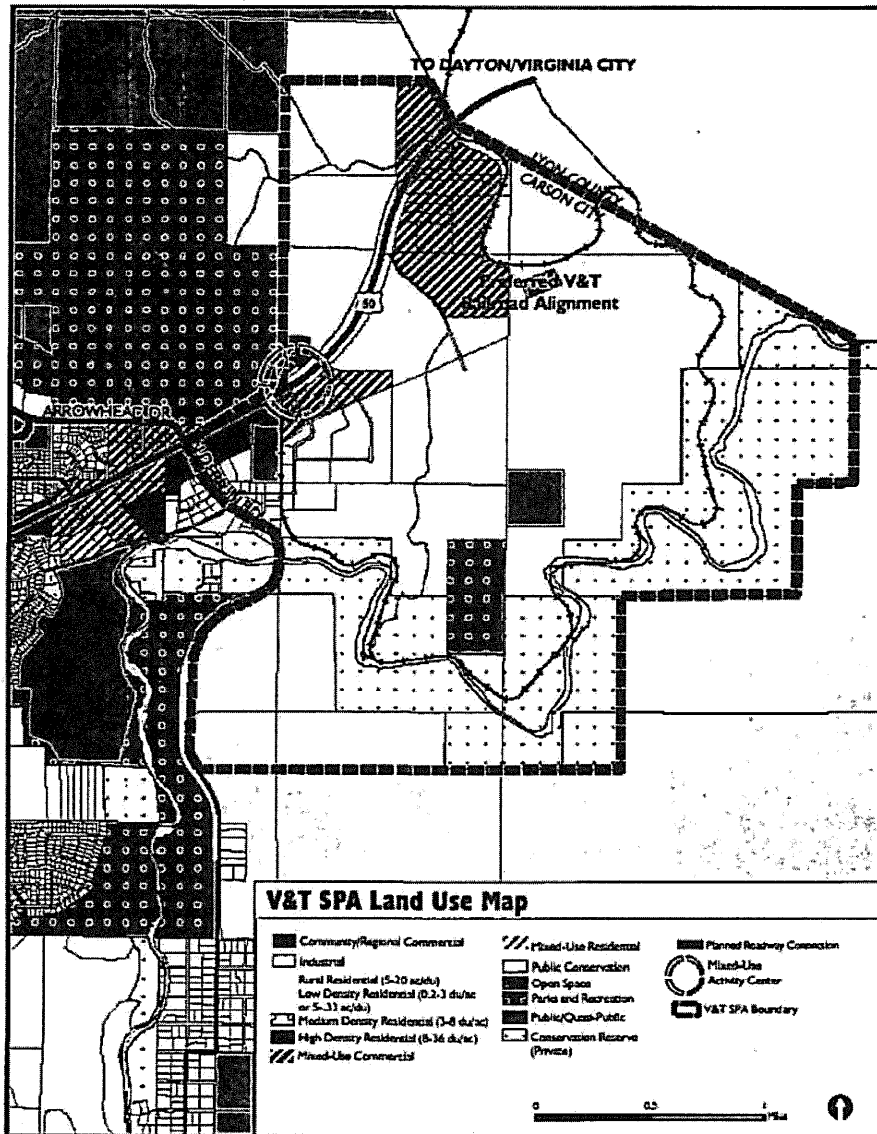
This goal is not applicable; due to the fact the use is not located along the Carson River corridor.

(V&T-SPA) Coordination Policies

V&T SPA—4.1 Coordination

Encourage continued collaboration with Lyon County and Storey County to minimize land use conflicts along the V&T corridor.

The staff has notified Lyon County Planner Rob Pyzel of the request to modify the hours of operation as well as obtained a mailing list from Lyon County of property owners who may be potentially impacted by the change in hours of operation. Sixty eight Lyon County property owners were notified.



2. The proposed use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and will cause no noise, vibrations, fumes, odors, dust, glare or physical activity.

The use creates odors. The impact of the odors are primarily on residents to the east of the facility. NDEP staff has explained that the primary source of the odor is Volatile Organic Compounds (VOC's). NDEP staff advised of a similar problem with an asphalt plant in Fernley. In that case, the operator installed a Regenerative Thermal Oxidizer, and there have been no odor complaints in over two years. This equipment is installed after the bag house. Of note, the applicant does not believe a Regenerative Thermal Oxidizer is effective.

Staff also met with Eric Florio, an Air Quality Specialist with the Business Environmental Program at UNR. He conducted independent research, and advised that

there are odor suppressants that are additives to the mix. Based on his research, the two products that are effective suppressants are Ecosorb and Asphalt Solutions. The applicant has acquired Ecosorb, but has not incorporated into his operations.

Other steps that will potentially address the odor, although to what degree of effectiveness is questionable, are:

- Install a roof over the truck loading chute area.
- Install water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air.
- The vent condenser that has been installed must be maintained to address odors.

The staff finds it is necessary to take proactive steps to address odors. As the applicant has acquired the Ecosorb, and the air quality expert that staff consulted with found it to be an effective odor suppressant based on research, staff would recommend a condition of approval that the applicant utilize the Ecosorb that he has acquired, as well as install and maintain the three bulleted items above. Staff further recommends that the Special Use Permit be scheduled for further review in one year so that the effectiveness of the suppressant can be reviewed. The review of the Special Use Permit shall be subject to the noticing requirements identified in CCMC 18.02.045, with the applicant responsible for paying noticing fees.

Furthermore, with respect to hours of operation, staff has consulted with personnel at the Nevada Department of Transportation relative to the road project on Highway 50 from Stage Coach to Silver Springs. It is anticipated that project will be primarily day work as there is a requirement to keep a lane open. Work on South Carson Street will not occur until 2020, and is also anticipated to be primarily day work. Both projects anticipate occasional night work. Therefore, the staff recommends limiting work outside of the approved hours of operation to only 30 times per year. Specifically, staff recommends modification of the hours of operation to:

Monday through Saturday: 6:00 AM – 6:00 PM (startup of equipment 5:30 AM – 6:00 AM, gates open at 6:00 AM); and

Up to 30 evenings or Sundays in a calendar year, with the provision that the applicant must advise the Community Development Director at least seventy two hours in advance of working an evening or a Sunday.

- 3. The project will have little or no detrimental effect on vehicular or pedestrian traffic.**

The modification to the hours of operation will have little effect on vehicular or pedestrian traffic.

- 4. The project will not overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public improvements.**

The proposed change in hours of operation will not overburden existing public facilities or services.

5. **The project meets the definition and specific standards set forth elsewhere in this Title 18 for such particular use and meets the purpose statement of that district.**

The use has lawfully established. The property is zoned General Industrial, and is consistent with the purpose statement of that district.

18.04.150 General Industrial (GI). The GI District is established to preserve an industrial district for uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

6. **The project will not be detrimental to the public health, safety, convenience and welfare.**

With the recommended conditions of approval, particularly the conditions that address odors and the review in one year, staff finds that the modification to the hours of operation as recommended by the staff will not be detrimental to the public health, safety, convenience and welfare.

7. **The project will not result in material damage or prejudice to other property in the vicinity.**

With the recommended conditions of approval, particularly the conditions that address odors and the review in one year, staff finds that the modification to the hours of operation as recommended by the staff will not be detrimental to the public health, safety, convenience and welfare.

Attachments:

Correspondence from Bryan Wagner
Application (SUP-10-115-2)
Supplemental materials provided by the applicant.

HOPE

887-2278

11/18/19

I HAVE THE ORIGINAL PETITION THAT WAS SIGNED BY THE PEOPLE HERE IN THE CARSON HIGHLANDS AGAINST TWA, THERE IS 7 PAGES INCLUDING THE COVER SHEET,

THANK YOU FOR ALL YOUR HELP!

BOB + JUDY LUCAS

775-246-0351

PG 1 OF 7

LATE MATERIAL

RECEIVED
NOV 18 2019
CARSON CITY PLANNING DIVISION

PG 2 OF 7

Petition to Return Air Quality and Stop Noxious Fumes

<p>Petition summary and background</p>	<p>Carson Highlands subdivision is petitioning due to noxious fumes infiltrating and settling in the Carson Highlands subdivision area due to asphalt and asphalt product production from Tahoe West Asphalt, Highway 50, Moundhouse, NV 89706.</p> <p>We the residents ask for re-evaluation of EPA regulations and/or the Clean Air Act, in regard to proximity to residents/residences to production of material with potential health issues and offer a solution that returns quality of life/air quality to residents.</p> <p>Petitions will be given to the following for action.</p> <p>Nevada Division of Environmental Protection Carson City Board of Supervisors 901 South Stewart Street, Suite 4001 201 N. Carson Street, Suite 2 Carson City, Nevada 89701 Carson City, NV 89701</p> <p>NV Clean Air- ^{Wimer} Bob Weiner (775) 687-9349</p>
<p>Action petitioned for</p>	<p>I have been a resident of the Carson Highlands for 20+ years as have many of my neighbors as indicated below.</p> <p>We, the undersigned, are concerned citizens who urge our leaders to act now: We are asking for assistance from our elected and paid officials to work with TWA and the residents of Carson Highlands to resolve this important issue.</p>

Printed Name	Signature	Address	Comment/Years Resident	Date
MELANIE HARRIS	<i>Melanie Harris</i>	221 MARIAM WAY	7 yrs	10-18-16
Judy Lucas	<i>Judy Lucas</i>	225 MARIAM WAY	24 yrs	10-18-16
ROBERT LUCAS	<i>Robert Lucas</i>	225 MARIAM WAY	24 YRS	10-18-16
SANDRA MOAD	<i>Sandra Moad</i>	221 MARIAM WAY	3 1/2 yrs	10-18-16
Christina Dixon	<i>Christina Dixon</i>	233 MARIAM WAY	3 yrs	10-18-16
DAVID WILSON	<i>David Wilson</i>	243 MARIAM WAY	10 years	10-18-16
LINDA WILSON	<i>Linda Wilson</i>	243 MARIAM WAY	1 1/2 years	10-18-16

PG 30F7

Printed Name	Signature	Address	Comment/Years Resident	Date
MIKE ZACCARO	<i>[Signature]</i>	245 MIRIAM WAY	4	10-18-16
Mitch Muerk	<i>[Signature]</i>	222 Miriam way	15	10-18-16
RICHARD SMITH	<i>[Signature]</i>	219 Miriam Way	8	10/19/16
Bory Dossain	<i>[Signature]</i>	209 miriam way	7	10/20/16
BERTY GREEN	<i>[Signature]</i>	249 M. R. IR. WAY	6	10/20/16
Bonnie Schroed	<i>[Signature]</i>	2494 Miriam Way	18	10/20/16
William Arel	<i>[Signature]</i>	240 Miriam way MORNING HONOR LEE	17	10/20/16
Harold Cary	<i>[Signature]</i>	230 MIRIAM WAY	3	10/20
Kathy Cary	<i>[Signature]</i>	270 Miriam way	3	10/20
VIRGINIA STEWART	<i>[Signature]</i>	223 Yessie way	28	10/20
William Arel	[Signature]			
Richard Davis	<i>[Signature]</i>	215 Miriam Way	12	10/25/16
Jonathan Jones	<i>[Signature]</i>	213 Miriam	30	10/25/16
Diana Biron	<i>[Signature]</i>	200 James st	10 yrs	10-25-16
DANNY WHITEWAY	<i>[Signature]</i>	238 Miriam way	18 years	25 OCT 16
BERRY WHITEWAY	<i>[Signature]</i>	238 Yessie way	18 yrs	10/25/16

can work. 5:00-6
 PG 4 OF 7

Petition to Return Air Quality and Stop Noxious Fumes

<p>Petition summary and background</p>	<p>Carson Highlands subdivision is petitioning due to noxious fumes infiltrating and settling in the Carson Highlands subdivision area due to asphalt and asphalt product production from Tahoe West Asphalt, Highway 50, Moundhouse, NV 89706.</p> <p>We the residents ask for re-evaluation of EPA regulations and/or the Clean Air Act, in regard to proximity to residents/residences to production of material with potential health issues and offer a solution that returns quality of life/air quality to residents.</p> <p>Petitions will be given to the following for action.</p> <p>Nevada Division of Environmental Protection Carson City Board of Supervisors 901 South Stewart Street, Suite 4001 201 N. Carson Street, Suite 2 Carson City, Nevada 89701 Carson City, NV 89701</p> <p>NV Clean Air- Bob Went ^{Wimer} (775) 687-9349</p>
<p>Action petitioned for</p>	<p>I have been a resident of the Carson Highlands for 20+ years as have many of my neighbors as indicated below.</p> <p>We, the undersigned, are concerned citizens who urge our leaders to act now: We are asking for assistance from our elected and paid officials to work with TWA and the residents of Carson Highlands to resolve this important issue.</p>

Printed Name	Signature	Address	Comment/Years Resident	Date
Susan Cox	<i>Susan Cox</i>	760 Charl De. Milligan House, NV 89706	10 yrs Susan Cox Tahoe West Asphalt Site	10/21/16
JASON CRAM	<i>Jason Cram</i>	760 Charl/Dobson	4 yrs	10/21/16
Jim Enloe	<i>Jim Enloe</i>	186 James Ct.	This shit stinks 20	10/21/16
Kody Manns	<i>Kody Manns</i>	146 James Ct	Small house	11/27
Brian Hawley	<i>Brian Hawley</i>	196 James Rd	know my kids (top 10)	10/17
Dev. Montes	<i>Dev. Montes</i>	911 Highlands Dr.	14 years	10/22
Brian Dutierre	<i>Brian Dutierre</i>	4111 Highlands Dr.	14 years	10/22

PG 50 F 7

Printed Name	Signature	Address	Comment/Years Resident	Date
ELLY KELLER	<i>Elly Keller</i>	399 Traci Ln.	A	10-22-16
Gerardo Gono	<i>Gerardo Gono</i>	381 Traci Ln	4	10-22-16
FRANK ROYER	<i>Frank Royer</i>	383 Traci Ln	26	10-22-16
CHRISTINE GONZALEZ	<i>Christine Gonzalez</i>	385 TRACI LN	16 YR	10-22-16
JOAD CROWDER	<i>JOAD CROWDER</i>	S.A.M.C	SAME	
Carla Fajardo	<i>Carla Fajardo</i>	388 Traci Ln	1985 (Molded)	10-22-16
SECALA HERRERA	<i>SECALA HERRERA</i>	392 TRACI	22 YRS	10-22-16
MARIA F. RIZO	<i>MARIA F. RIZO</i>	391 TRACI LN	4 YRS	10-22-16
Octavio Suarez	<i>Octavio Suarez</i>	391 TRACI LN	4 YR	
Arnelde Verdin	<i>Arnelde Verdin</i>	595 JENNIFER	2 YR	10-22-16
HAROLD GONZALEZ	<i>HAROLD GONZALEZ</i>	907 Highways Dr.	16 yrs	10-22-16
FRANK ROYER	<i>FRANK ROYER</i>	904 Highways Dr.	20+ yrs	10-22-16
ERIC RODRIGUEZ	<i>ERIC RODRIGUEZ</i>	798 Chari Dr	25	10/22/16
MARIA T. RIZO	<i>MARIA T. RIZO</i>	798 Chari Dr.	3	10/22/16
GRISelda Sequedra	<i>GRISelda Sequedra</i>	911 Highways Dr.	20 yrs	10-22-16
KARLA ANDERSON	<i>KARLA ANDERSON</i>	291 MIRIAM Way	5 yrs	10/22/16

PG 6 OF 7

Printed Name	Signature	Address	Comment/Years Resident	Date
Sonya Lee		289 Miriam Way	1 yr Nov 7	10-22-16
Kearna Drake Pen-Prude		286 Miriam Way	8 yrs health issues	10-22-16
Dario Perez		288 Miriam way	8 yrs Tim Furious	10/23/16
Melina Burke		772 Charri Dr 87m	7 yrs	10-23-16
Bob Gallina		208 Miriam Way	5 yrs	10-23-16
Pelaura welch		208 miriam way	5 yrs	10-23-16
Jacob martin		801 clardi Ln	2 yrs	10-23-16
Dana Luterick		384 Traci LN	28 yrs	10-23-16
Marisa Sandoz		281 Miriam way	22 yrs	10-25-16
1.094U FARRAR		770 CHARL PR M4.1041	26 yrs	10-25-16
1.094U FARRAR		405 Traci lane mouse	11 yrs	10-27-16
1.094U FARRAR		406 Traci lane mouse	9 yrs	10/28/16
DAVID JANK		407 TRACI LN	> 1 yr	10/28/16
Martin Sizer		259 Miriam way	20 years	10/28/16
P. A. Tucker		620 Jenni LN	28 years	10/28/16
Melinda Priddy		1025 Senni lane	3 years	10/27/16

PG 7 OF 7

Printed Name	Signature	Address	Comment/Years Resident	Date
Christina Ramirez	[Signature]	307 Pinhurst Ct Denton	Can't drive with wireless 20 yrs	10/27/16
N Talavera	[Signature]	590 Jennie Ln.	26 years	11/28/16
Sandy Cowen	[Signature]	782 Chaki Dr	23 yrs	10/28/16
Melissa [unclear]	[Signature]	1770 Charis Dr	Can't breathe in head back home 26 yrs eyes burn	10/28/16
Roger Dimarzo	[Signature]	393 Traci Ln	15 yrs	10/28/16
ROSE DIMARZO	[Signature]	393 Traci Ln	15 yrs	10/28/16
Mailla Lopez	[Signature]	710 Charis Dr	20 years	10/30/16
SHAWILEY	[Signature]	390 Traci Ln	8 yrs	10/31/10

Hope Sullivan

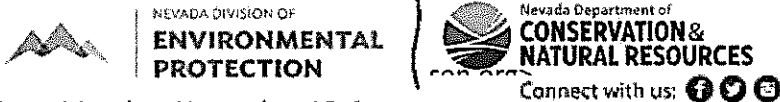
From: Travis Osterhout <travis.osterhout@ndep.nv.gov>
Sent: Tuesday, November 19, 2019 2:33 PM
To: Hope Sullivan
Cc: Nathan Rash
Subject: RE: asphalt TWA

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hi Hope,

I believe it would. For example, approximately 4 years ago we had an asphalt storage facility that was located in close proximity to, and upwind of, a downtown area as well as residential homes. We consistently received complaints regarding the asphalt/oil smell from residents. The company worked with our office to add a new RTO to their permit, installed the control, and we have not received any complaints about odors from the facility since.

Travis Osterhout, P.E.
Supervisor
Compliance Branch, Bureau of Air Pollution Control
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
travis.osterhout@ndep.nv.gov
(O) 775-687-9530



Sent: Monday, November 18, 2019, 2:33 PM
To: Travis Osterhout <travis.osterhout@ndep.nv.gov>
Cc: Nathan Rash <nrash@ndep.nv.gov>
Subject: Re: asphalt TWA

Just to confirm - would it address odors that Moundhouse residents are concerned with?

Sent from my iPhone

On Nov 18, 2019, at 6:06 PM, Travis Osterhout <travis.osterhout@ndep.nv.gov> wrote:

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hi Hope,

Other facilities that work in asphalt production/storage have installed a Regenerative Thermal Oxidizer (RTO), which is a type of air pollution control equipment designed to decompose volatile organic compounds (VOCs), with large success, in our experience.

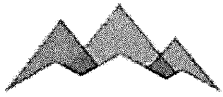
Travis Osterhout, P.E.
Supervisor
Compliance Branch, Bureau of Air Pollution Control
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
travis.osterhout@ndep.nv.gov
(O) 775-687-9530
<image007.png>

From: Hope Sullivan <HSullivan@carson.org>
Sent: Monday, November 18, 2019 4:37 PM
To: Travis Osterhout <travis.osterhout@ndep.nv.gov>
Subject: asphalt TWA

Travis:
I'll go through my paperwork, but was hoping you would know what the piece of equipment is that could be added to the asphalt plant at TWA to address smells.

Thank you!

Hope Sullivan, AICP
Planning Manager
Carson City, NV 89701
775-283-7922



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources
Steve Sisolak, Governor
Bradley Crowell, Director
Greg Lovato, Administrator

December 4, 2019

Robert Matthews
Owner
Tahoe Western Asphalt, LLC
PO Box 21645
Carson City, NV 89721

Re: Status of Class II Air Quality Operating Permit AP1611-3748, FIN A1969 – Tahoe Western Asphalt, LLC

Dear Mr. Mathews:

The Nevada Division of Environmental Protection - Bureau of Air Pollution Control (BAPC) received an email from Tahoe Western Asphalt, LLC (TWA) on December 2, 2019 requesting the compliance status of the TWA facility.

Currently, TWA is in good standing with the above-referenced permit.

However, please note that since the issuance of the last status letter dated October 16, 2018, the BAPC has received 180 complaints from the public regarding the TWA facility, with a majority of complaints related to odors.

If you have any questions or concerns, please contact me at (775) 687-9336 or lkremer@ndep.nv.gov.

Sincerely,

Lisa Kremer, P.E.

Chief

Bureau of Air Pollution Control

E-Copy: Jeffrey Kinder, P.E., Deputy Administrator, Nevada Division of Environmental Protection
Travis Osterhout, P.E., Supervisor, Compliance Branch, Bureau of Air Pollution Control
FIN A1969



Carson City Code Enforcement

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
codeenforcement@carson.org
www.carson.org/planning

MEMORANDUM

TO: Hope Sullivan, Planning Manager

FROM: William Kohbarger, Code Enforcement

DATE: February 13, 2020

SUBJECT: Tahoe Western Asphalt LLC
8025 Hwy 50 E

The following is a Code Enforcement summary of all the complaints, investigations and interactions involving Case #101162, Tahoe Western Asphalt LLC.

Pursuant to your request, I am providing information on this case from November 06, 2019 forward.

Number of Complaints: 19

Odor complaints = 17

Hours of operation = 2

Notice of Violations:

None

Visits to Mound House:

November 25, 2018 – no odor detected;

November 26, 2019 – no odor detected

Hope Sullivan

From: Rob Pyzel <rpyzel@lyon-county.org>
Sent: Friday, February 14, 2020 11:43 AM
To: Hope Sullivan
Subject: Re: code enforcement?

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Not that I know of.

Rob Pyzel, Planner
Lyon County Planning Department
(775) 246-6135; X-2473
rpyzel@lyon-county.org

Definition of caveat emptor: a principle in commerce: without a warranty the buyer takes the risk.

On Fri, Feb 14, 2020 at 11:42 AM Hope Sullivan <HSullivan@carson.org> wrote:

Thanks for the reply!

Have you had any complaints / issues since November 6, 2019?

Hope

From: Rob Pyzel [<mailto:rpyzel@lyon-county.org>]
Sent: Tuesday, February 11, 2020 2:25 PM
To: Hope Sullivan
Subject: Re: code enforcement?

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hope Sullivan

From: Robert Matthews <robert.matthews68@gmail.com>
Sent: Tuesday, February 18, 2020 11:30 AM
To: jclarke@shjnevada.com; Hope Sullivan; nrash@ndep.nv.gov; Ashley Taylor
Subject: Fwd: Your Self Service Scan from Office Depot
Attachments: Office Depot Scan.pdf; ATT00001.htm

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

FYI

Sent from my iPhone

Begin forwarded message:

From: Office Depot <noreply1@officedepot.com>
Date: February 18, 2020 at 11:13:14 AM PST
To: "robert.matthews68@gmail.com" <robert.matthews68@gmail.com>
Subject: Your Self Service Scan from Office Depot

From: <noreply1@officedepot.com>

Here is your scanned attachment.

CONFIDENTIALITY NOTICE: The information contained in this email and attached document(s) may contain confidential information that is intended only for the addressee(s). If you are not the intended recipient, you are hereby advised that any disclosure, copying, distribution or the taking of any action in reliance upon the information is prohibited. If you have received this email in error, please immediately notify the sender and delete it from your system.

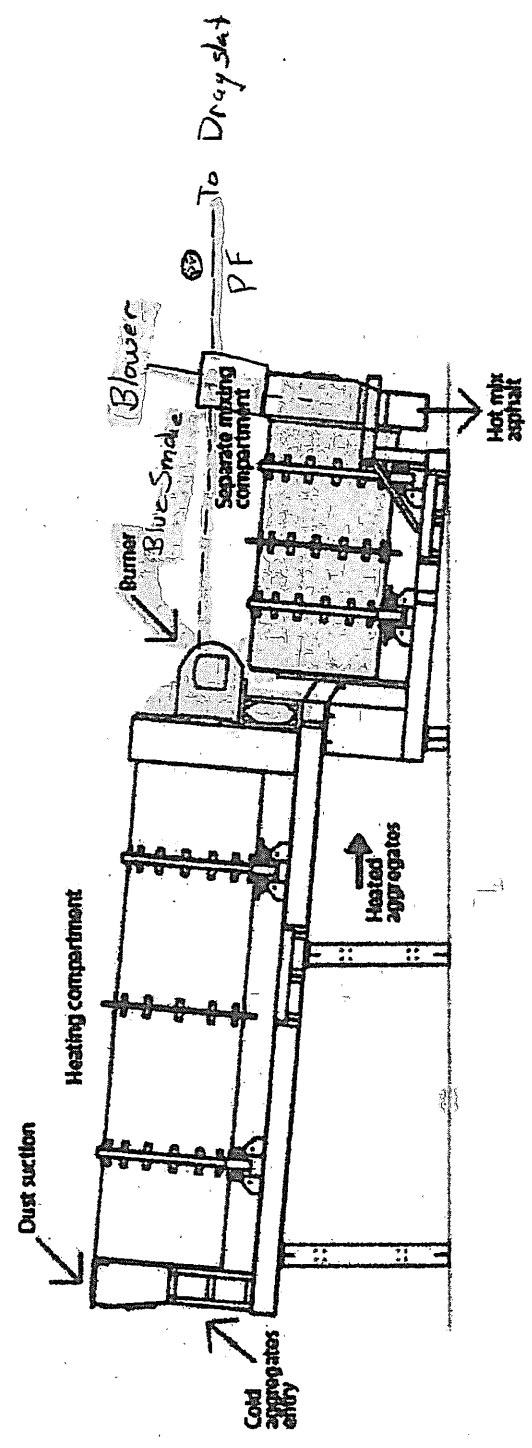
Flow Diagrams 2

2 Blue Smoke

2 [A] Silo top 18" outwork
Batcher
Dray slat top
Load out

2 [B] Blower (fan) 5000 CFM
Mixer drop point
Burner Bulhead (secondary fan Mix)

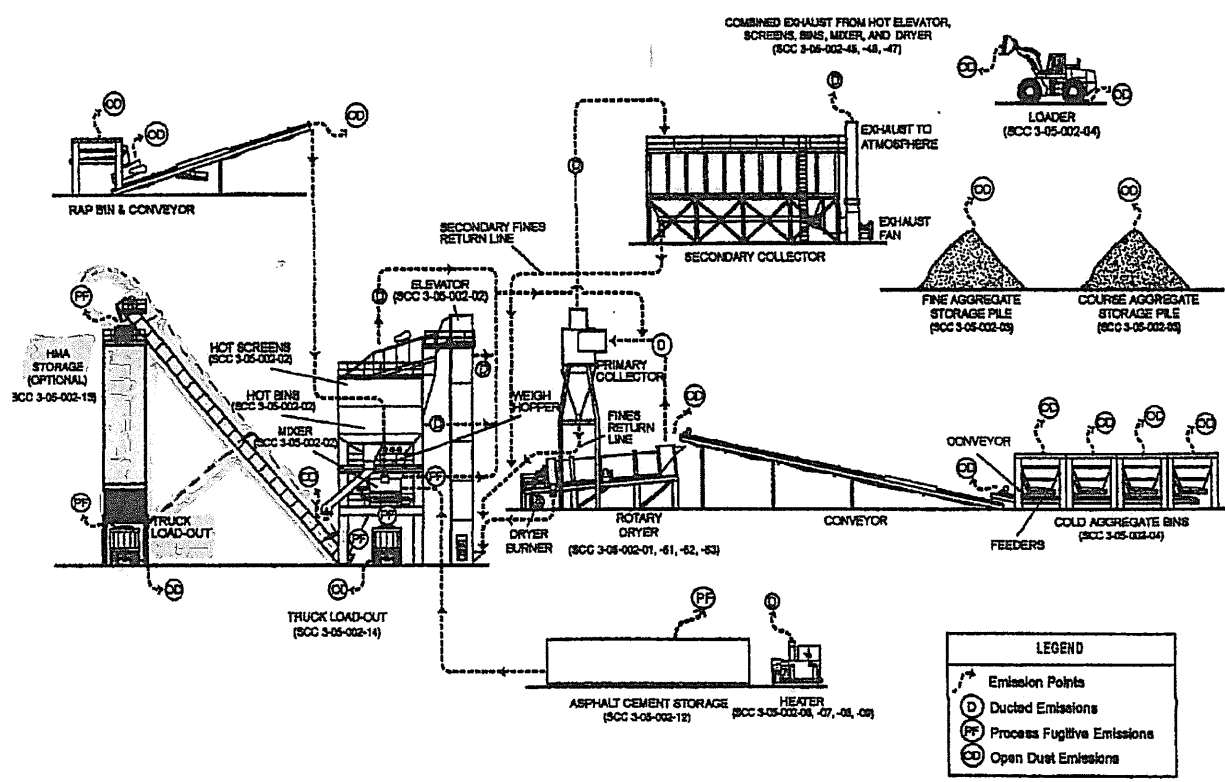
2/B



2 A

11.1-2

EMISSION FACTORS



3/04

Figure 11.1-1. General process flow diagram for batch mix asphalt plants (source classification codes in parentheses).³

Hope Sullivan

From: Tanya Soleta <tsoleta@ndep.nv.gov>
Sent: Tuesday, February 18, 2020 1:46 PM
To: 'robert.matthews68@gmail.com'
Cc: Nathan Rash; Travis Osterhout; 'jclarke@shjnevada.com'; Hope Sullivan
Subject: NDEP-BAPC Review of Documents in Regards to New Components

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good Afternoon Mr. Matthews,

We have received and reviewed your submittal of 2/18/2020 consisting of several flow diagrams. However, we still need additional information in order to determine if a revision application is needed prior to installation of the new components. Specifically the remaining items mentioned in Ashley Taylor's letter dated 1/13/2020, which consist of the following items:

- A summary of existing and proposed emissions,
- Stack parameters for new equipment; including dimensions, flowrate, temperature, etc.
- Manufacturer's specifications/guarantees for any new equipment when utilized to justify emission calculations.
- Detailed emission calculations for all new or modified equipment.

Once we receive these items we can make our determination as to whether a revision is necessary. Also please be aware that Ashley Taylor is on maternity leave until the end of March, and in her absence I will be reviewing all materials related to permitting.

Regards,

Tanya Soleta
Supervisor
Permitting Branch, Bureau of Air Pollution Control
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
tsoleta@ndep.nv.gov
(p) 775-687-9540



From: Robert Matthews <robert.matthews68@gmail.com>
Sent: Tuesday, February 18, 2020 11:30 AM
To: jclarke@shjnevada.com; HSullivan@carson.org; Nathan Rash <nrash@ndep.nv.gov>; Ashley Taylor



925 499 1064

Kendira Koch 2/11/20 Kendirababykoch@gmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Kathie Pitts 2/11/20 Kpitts123@gmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Hope Larson 2/11/2020 (408) 761-7555 hope.larson66@yahoo.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Aaron Hobson 2/11/2020 775-350-7035 aushkaterlife@aol.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Tyler Pitts 2/11/2020 TPitts1992@gmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Tim Pitts 2/11/2020 tim.pitts91@yahoo.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Fred Bechtold 2/11/2020 freddyb775@gmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)



Tahoe Western Asphalt, based here in Carson City, has recently recieved complaints related to air quality issues. We, as a locally based company, are reaching out to members of the community with interest over whether citizens of Carson City and the surrounding areas have or have not experienced air quality issues.

We take this issue very seriously and value each and every citizen who takes the time to leave feedback. Thank you very much again for your time, and we look forward to continuing our dedicated service to Carson City and the surrounding areas.

Robert Matthews

Dru Sutton 2/11/2020 775-857-5538
Name Date Email Address *10 Cash rd.*

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Amelia Glenn 2/11/20 daytonglenns@hotmail.com
Name Date Email Address *775 691-4922*

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Luis wetzel 2/11/20 brendanwetzel51@hotmail.com
Name Date Email Address *550 643 6537*

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Zachary Moses - Rostic 2/11/20 Mr. Moses5@gmail.com
Name Date Email Address *775-291-7755*

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)



Robert [Signature] 2-11-20 559-246-8292
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Shirley Gattis 2-11-20 Wingadiator@yahoo.com
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Andrew Larsen 2-11-20 775-350-9374
Drewlarsen15@gmail.com
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Jacob Kitchell 2/11/20 775 220 3933
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Spencer Seare 02/11/20 DroptofMAZDARATI@gmail.com
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Brandy Neale 02/11/2020 bsurfinbird@aol.com
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Jeremy Starke 2/11/2020 Devil666onmy/moon@gmail.com
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)



SAGE TMD 2-10-20 SAGETMD@GMAIL.COM
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Robert Samojelin 2-10-20 chuckforest@gmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Steven Kohler 2-11-2020 skohler0113@gmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Tristan Finley 2-11-20 775-409-8866
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Dominique Hayes 2-11-20 775-400-0868
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Travis Pitts 2-11-20 408-605-7053
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Antoinette Estrada 2/11/20 aceantoinette@gmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)



Tahoe Western Asphalt, based here in Carson City, has recently received complaints related to air quality issues. We, as a locally based company, are reaching out to members of the community with interest over whether citizens of Carson City and the surrounding areas have or have not experienced air quality issues.

We take this issue very seriously and value each and every citizen who takes the time to leave feedback. Thank you very much again for your time, and we look forward to continuing our dedicated service to Carson City and the surrounding areas.

Robert Matthews
[Signature] 2-13-20 JeddLurrer@Schwans.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Tuci McIntosh 2/13/20 tucimcintosh@gmail.com
Name Date Email Address 02 Red Rock Rd, Mead Nev 89024

Have you experienced air quality issues Yes _____ No ✓
on a regular basis? (Check yes/no)

Randy Spinks 2-13-20 707-206-8701
Name Date Email Address

Have you experienced air quality issues Yes _____ No ✓
on a regular basis? (Check yes/no)

[Signature] 2-13-20 775-790-2592
Name Date Email Address

Have you experienced air quality issues Yes _____ No _____
on a regular basis? (Check yes/no)



Tahoe Western Asphalt, based here in Carson City, has recently received complaints related to air quality issues. We, as a locally based company, are reaching out to members of the community with interest over whether citizens of Carson City and surrounding areas have or have not experienced air quality issues.

We take this issue very seriously and value each and every citizen who takes the time to leave feedback. Thank you very much again for your time, and we look forward to continuing our dedicated service to Carson City and the surrounding areas.

Robert Matthews 2-12-20 clean Chris 777
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

[Signature] 2/13/20 LALVIN22@Hwy 50 GA
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Alex Vega 2-13-20 (775) 841-4626
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)

Donald Sexton 2-11-20 dxtandcater@gmail.com
 Name Date Email Address

Have you experienced air quality issues Yes _____ No X
 on a regular basis? (Check yes/no)



775-790-1460

Kim Jackson 2-13-20 twckiminc@hotmail.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

John Brice 2/13/20 info@allamericanab.com
Name Date Email Address

Have you experienced air quality issues Yes ✓ No _____
on a regular basis? (Check yes/no)

SHARON LOMO 2-13-20 sharonmarieimus@dragon.com
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Scotty Workman 2-13-20 775-291-0845
Name Date Email Address

Have you experienced air quality issues Yes _____ No X
on a regular basis? (Check yes/no)

Leon Bousse 2/13/20 (415) 505-8521
Name Date Email Address

Have you experienced air quality issues Yes _____ No _____
on a regular basis? (Check yes/no)

Name Date Email Address

Have you experienced air quality issues Yes _____ No _____
on a regular basis? (Check yes/no)

Name Date Email Address

Have you experienced air quality issues Yes _____ No _____
on a regular basis? (Check yes/no)

SIMONS ▾ HALL ▾ JOHNSTON

February 14, 2020

VIA EMAIL ONLY: Planning@carson.org

Planning Division
108 E. Proctor Street
Carson City, Nevada 89701

RE: Tahoe Western Asphalt, LLC, - Notice of Decision – SUP-10-115-2

Planning Commission:

As you are aware, this law firm has been retained to represent Tahoe Western Asphalt, LLC ("TWA") with respect to its appeal of the November 20, 2019, Notice of Decision – SUP-10-115-2 and the improper investigation that was stayed pending action by the Board of Supervisors during the February 6, 2019, meeting. We are in receipt of your letter dated February 7, 2020.

Your letter states, "Consistent with the Board's action, the review of the subject special use permit is being noticed for the Planning Commission's meeting of February 26, 2020." You go on to state that "Any information you would like staff to consider in providing a recommendation to the Commission must be submitted by noon, on February 14, 2020." These statements are extremely problematic as it appears the Planning Commission has a predetermined agenda to institute additional arbitrary and capricious conditions making it impossible for TWA to comply with its Special Use Permit 10-115-2 ("SUP").

Further, the Planning Commission contends it will be "reviewing" TWA's SUP without: (1) an investigation even starting, (2) allowing the investigation to conclude and (3) without obtaining objective and/or scientifically based findings of fact and conclusions. The Planning Commission only allowed five (5) business days for TWA to formulate a response to the Planning Commission's "review" – this is extremely prejudicial to TWA. Please consider the following points and considerations which demonstrate TWA has complied with all governmental requirements and will continue with its lawful business operations.

1. CONDITIONS OF SUP.

As you know, TWA has fully complied with all conditions of its SUP. TWA has further complied with all requirements of the Nevada Department of Environmental Protections ("NDEP"). See December 4, 2019, Letter from Lisa Kremer, Chief of the

6490 S. McCarran Boulevard, Suite F-46 Reno, NV 89509
Phone 775-785-0088 Fax 775-785-0087 Website SHJNevada.com

Bureau of Air Pollution Control – NDEP. TWA has operated during the appropriate hours. TWA has employed Ecosorb to suppress odors. TWA also successfully implemented all other conditions identified in the October 29, 2018, Notice of Decision (obtained all appropriate permits, roof, water fogging systems, vent condenser, etc.). Thus, there is no objective or reasonable basis to modify TWA's SUP or institute an investigation into TWA's compliance with the SUP.

2. INITIATION OF VENDETTA.

While TWA is absolutely certain a small minority of nearby residents are improperly attempting to use the local government to shut its operations down, it appears the Planning Commission is complicit in pursuing this unlawful objective. As identified in the December 17, 2019, meeting, there were **226 complaints** made by residents in 2019. **95% of those complaints were made by five (5) people** (the "Complainers"). The Planning Commission is welcome to verify the statistics, however, as will be produced, TWA has secured dozens of signatures from nearby residents who confirmed no odors are emanating from TWA's operations and have no complaints regarding odors or other air quality issues.

As you know, there has been no other evidence, objective or otherwise, presented justifying the Planning Commission's actions against TWA. Your previous investigations specifically found that "given a lack of substantiated concerns, staff is not recommending any further action."

In addition, the Complainers allege they are afraid of health issues, yet they have provided no evidence of health problems to date. The Complainers complain of odors in the middle of the night, yet this is an outright fabrication which TWA can prove to a certainty – TWA does not operate at night. The Complainers say TWA is "mean" – is that a basis to shut down TWA? These unsubstantiated complaints do not merit modifications to TWA's SUP nor do they warrant an investigation.

3. PLANNING COMMISSION'S IMPROPER CONDUCT.

A. Regenerative Thermal Oxidizer.

It is not clear from your letter or the February 26, 2020, Planning Commission Agenda what exactly the Planning Commission is going to review. The last time the Planning Commission "reviewed" TWA's SUP on November 19, 2019, the Planning Commission implemented an improper condition requiring TWA to purchase and install a \$2,000,000 regenerative thermal oxidizer ("RTO"). This action by the Planning Commission was entirely improper as TWA was provided no notice or an opportunity to be heard on this issue. Further, this conduct demonstrates the Planning Commission's true motive of putting TWA out of business.

Supporting this conclusion, on February 6, 2020, Hope Sullivan admitted to the Board of Supervisors that the RTO was the wrong piece of equipment. In a phone conversation with the undersigned on February 7, 2020, Ms. Sullivan further admitted that she lacks the technical expertise to recommend any pieces of equipment for TWA. Not only did your improper RTO condition cost TWA thousands in legal and consulting fees, but the Planning Commission implemented the RTO condition without any technical or scientific basis whatsoever. TWA is appropriately concerned that the Planning Commission will similarly institute another arbitrary and capricious condition on TWA's SUP.

B. Baseless Investigation.

Now, the Planning Commission has initiated an investigation into whether TWA has complied with the conditions of the SUP. However, outside of five (5) people (the Complainers) making over 215 complaints in 2019, there are no other independent or objective facts or information justifying an investigation by the Planning Commission. The NDEP indicated TWA is in full compliance with the SUP. Ms. Sullivan¹ drafted a memorandum dated November 6, 2019, stating, "the threshold for a violation has not been met." She further noted that Lyon County had not received any recent complaints and critically, "Given a lack of substantiated concerns, staff is not recommending any further action."

What changed between November 2019, and December 17, 2019? Nothing. The Complainers kept complaining and TWA continued complying with its legal obligations under the SUP and NDEP guidelines. There is no basis for an investigation.

Equally concerning is the Planning Commission's blatant disregard of NAC 445B.22087(2). This provision mandates the "director shall investigate an order when 30 percent or more of a sample of the people exposed to it believe it to be objectionable" In reading this code provision, two problems are apparent: (1) Ms. Sullivan indicated to TWA that she is currently running the investigation (which has not even commenced according to the December 17, 2019, Planning Commission meeting); and (2) the Planning Commission has not met its threshold of demonstrating 30 percent or more of a sample of the people exposed believe the odor to be objectionable.

In addition, the above code provision states the "director shall investigate," not the Planning Manager. Carson City has no objective odor standards by which to measure emissions and odors. How is Carson City going to determine whether TWA should modify its plant and how is TWA supposed to monitor its compliance? These

¹ TWA is informed that Ms. Sullivan has been investigating TWA for over a year, dating back to October 2018, without the Planning Division having publicly approved of an investigation until December 17, 2019.

standards are identified by NDEP – which TWA is required to comply with pursuant to the condition of the SUP. The Planning Commission does not need to waste time and resources monitoring compliance with the NDEP's guidelines, that is the function of the NDEP. Thus, requiring additional conditions upon TWA's SUP would be arbitrary, capricious and without any evidentiary basis.

C. Investigation or Revocation?

On February 6, 2020, during the Board of Supervisors meeting, Ms. Sullivan stated multiple times on the record that the Planning Commission has started the "process of revocation." Based on these statements, it appears the Planning Commission already reached the conclusion that its objective is to revoke TWA's SUP despite the fact that the investigation has not commenced. Ms. Sullivan's statements to the Board of Supervisors are obviously highly alarming and demonstrate the Planning Commission's clear intent to revoke TWA's SUP. This blatant bias on behalf of the Planning Commission is egregious and TWA will not permit the Planning Commission to sidestep the fundamental principles of due process and equal protection in order to further its own hidden agenda or the agenda of the Complainers.

This highlights the glaring problem with the Planning Commission's actions: it continually puts the cart before the horse. First, when analyzing Carson City Municipal Code 18.02.08(5), the Planning Commission should develop and adhere to an objective and scientific standard of review rather than solely relying on the Complainers. This conclusion is magnified by Ms. Sullivan's admission that she could not substantiate any complaints against TWA. Second, once the Planning Commission identifies an objective standard of review, the Director should then initiate and conduct an investigation into whether modifying the SUP conditions in accordance with NAC 445B.22087 is appropriate. Then, if the Director determines the conditions should be modified, the Director should consult with an independent and objective third-party possessing the necessary technical expertise to recommend the equipment and processes which are actually appropriate for TWA's plant. Revocation should not even be discussed as TWA is in full compliance with its SUP conditions and NDEP regulations. The Planning Commission should not continue "reviewing" TWA's SUP and existing conditions without the investigation even starting, let alone concluding.

4. TWA'S PROACTIVE SOLUTIONS.

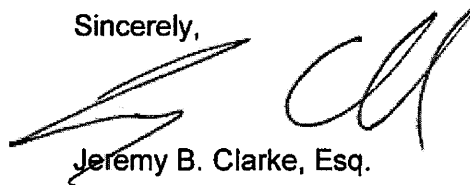
As was presented to the Board of Supervisors and Ms. Sullivan, TWA is implementing new equipment which will help the plant run cleaner and more efficient. These changes will also reduce emissions and any perceived odors. TWA is in the process of drafting the plans with its consultants, which will then be submitted to the NDEP for approval. Once approved by the NDEP, it will install the new equipment. This ongoing process cannot be completed overnight. TWA simply requests that the

February 14, 2020
Planning Division
Page 5

Planning Commission cooperate in this process, rather than implementing arbitrary, capricious and premature conditions denying my client of due process rights. TWA, the Planning Commission and the Complainers should all want the same thing: for TWA to run a clean and efficient plant all while minimizing the effects on its neighbors and the environment. Please allow TWA to get to the finish line without unnecessary interference.

Should you have any questions, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'JBC', is written over the typed name 'Jeremy B. Clarke, Esq.'.

Jeremy B. Clarke, Esq.

JBC/kr

cc: Robert Matthews

Hope Sullivan

From: Nathan Rash <nrash@ndep.nv.gov>
Sent: Friday, February 14, 2020 1:19 PM
To: Hope Sullivan
Cc: Travis Osterhout; Lisa Kremer
Subject: RE: TWA

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good morning Hope,

It depends what the facility modifications are. If TWA is proposing to add an air pollution control, meaning a system or device whose primary function is the reduction of regulated air pollutants (i.e. enclosing the drop area or utilizing a carbon filter, as you mentioned), a permit revision is not needed to make the modification. TWA would be required to notify NDEP of the modification in writing. NDEP will respond to the notification and the modification(s) will be incorporated into the air quality operating permit during the next renewal cycle.

However, if TWA is proposing to add equipment that emits or has the potential to emit any regulated air pollutant (i.e. burners, mixing drums, vaporizers, cyclones, duct work and fan for recirculation system, etc.), the facility needs to either: 1) submit a request for a Construction or Modification Determination, with all applicable requirements of the proposed changes, for NDEP's review. NDEP will then determine if a revision is required or if TWA can proceed without a revision; or 2) submit an application for a revision. Permit revisions take approximately 70 days to process. In both cases, NDEP approval must be given prior to installation and operation of new emission units.

I hope this helps,

Nathan Rash
Compliance Inspector



nrash@ndep.nv.gov
(O) 775-687-9358



From: Hope Sullivan <HSullivan@carson.org>
Sent: Monday, February 10, 2020 4:24 PM
To: Nathan Rash <nrash@ndep.nv.gov>
Subject: TWA

Nate:
I have a question that I think is general. If the operator of TWA wanted to add equipment that would address odors such as enclosing the drop area or utilizing a carbon filter, will that require an amendment to his permit with NDEP? I want to understand if he is somewhat handcuffed from making any improvements until the NDEP permit is amended, or if he is allowed to make improvements outside of his permit.

LMK & thanks!

Hope Sullivan, AICP
Planning Manager
Carson City, NV 89701
775-283-7922

MINUTES
Regular Meeting
Carson City Planning Commission
Tuesday November 19, 2019 ● 3:30 PM
Community Center Sierra Room
851 East William Street, Carson City, Nevada

Commission Members

Chair – Mark Sattler	Vice Chair – Charles Borders, Jr.
Commissioner – Alex Dawers	Commissioner – Paul Esswein
Commissioner – Teri Preston	Commissioner – Hope Tingle
Commissioner – Jay Wiggins	

Staff

Lee Plemel, Community Development Director
 Hope Sullivan, Planning Manager
 Ben Johnson, Deputy District Attorney
 Steven Pottéy, Engineering Project Manager
 Heather Ferris, Associate Planner
 Tamar Warren, Senior Deputy Clerk

NOTE: A recording of these proceedings, the board’s agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record. These materials are on file in the Clerk-Recorder’s Office, and are available for review during regular business hours.

An audio recording of this meeting is available on www.Carson.org/minutes.

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

(3:29:05) – Chairperson Sattler called the meeting to order at 3:29 p.m. Roll was called. A quorum was present. Commissioner Borders led the Pledge of Allegiance.

Attendee Name	Status	Arrived
Chairperson Mark Sattler	Present	
Vice Chair Charles Borders, Jr.	Present	
Commissioner Alex Dawers	Present	
Commissioner Paul Esswein	Present	
Commissioner Teri Preston	Present	
Commissioner Hope Tingle	Present	
Commissioner Jay Wiggins	Present	

B. PUBLIC COMMENTS

(3:30:00) – Chairperson Sattler entertained public comments; however, none were forthcoming.

C. POSSIBLE ACTION ON APPROVAL OF MINUTES – August 22, 2019 and September 26, 2019, workshop minutes, and the September 25, 2019 regular meeting minutes.

(3:30:20) – Chairperson Sattler entertained comments or motions.

(3:30:42) – **MOTION:** Vice Chair Borders moved to accept the minutes of the September 25, 2019 Planning Commission [regular meeting] minutes. The motion was seconded by Commissioner Esswein. Motion carried 7-0-0.

(3:31:08) – **MOTION:** Vice Chair Borders moved to approve the minutes of the August 22, 2019 Planning Commission Workshop minutes. The motion was seconded by Commissioner Tingle. Motion carried 6-0-1 with Commissioner Esswein abstaining as he was not present at the workshop.

(3:31:36) – Commissioner Dawers noted that he was absent from the September 26, 2019 Planning Commission Workshop and wished to have the correction reflected in the minutes.

(3:31:58) – **MOTION:** Commissioner Tingle moved to approve the minutes of the September 26, 2019 Planning Commission Workshop minutes as corrected. The motion was seconded by Commissioner Esswein. Motion carried 6-0-1 with Commissioner Dawers abstaining as he was not present at the workshop.

D. MODIFICATION OF AGENDA

(3:32:22) – Ms. Sullivan indicated that there were no proposed changes to the agenda; however, she noted that an applicant was not yet present which might result in taking an agenda item out of order.

E. PUBLIC HEARING MATTERS

E.1 SUP-19-169 – FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW A BEAUTY SHOP ON PROPERTY ZONED GENERAL OFFICE (GO), LOCATED AT 504 EAST MUSSER STREET, APN 004-181-03.

(3:32:58) – Chairperson Sattler introduced the item. Ms. Ferris presented the agenda materials. There were no questions from the Commissioners.

(3:35:27) – Applicant Caresse Williams noted her agreement with the conditions of approval. There were no questions to the applicant. Chairperson Sattler entertained public comments.

(3:36:30) – Jennifer Hilderbrand introduced herself as the property manager and noted that she was in favor of the Special Use Permit. Ms. Hilderbrand; however, was concerned with the cost of upgrading the ADA ramp due to a high bid she had received, and wished to know if the City could help with the cost.

(3:37:38) – Mr. Pottéy noted that he would defer the item to the City Engineer and responded to clarifying questions. Ms. Ferris believed that Condition #5 could read as follows:

“Prior to commencing use, the applicant shall upgrade the pedestrian curb ramp at the corner of East Musser Street and North Valley Street to meet current ADA standards to the satisfaction of the City Engineer.”

(3:38:18) – Discussion ensued regarding the current ADA ramp and whether the City had plans to upgrade it. Ms. Sullivan believed that the revised Condition #5 by Ms. Ferris was “the best flexibility Staff can offer now”. There were no additional comments. Chairperson Sattler entertained a motion.

(3:44:38) – MOTION: I move to approve Special Use Permit SUP-19-169 based on the findings and subject to the conditions of approval contained in the staff report including the amendment to Condition #5 [per the discussion above].

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Sattler
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.2 SUP-19-083-1 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO A SPECIAL USE PERMIT FOR OUTDOOR STORAGE TO ALLOW FOR PERSONAL STORAGE WITHIN AN ENCLOSED BUILDING ON PROPERTY ZONED GENERAL COMMERCIAL AND PUBLIC REGIONAL, LOCATED ON THE WEST SIDE OF AIRPORT ROAD, SOUTH OF BUTTI WAY, APN 010-041-76.

(3:45:18) – Chairperson Sattler introduced the item. Ms. Sullivan gave background, and presented the Staff Report with accompanying documents. She also highlighted the modified conditions of approval. There were no Commissioner or public comments.

(3:48:25) – Applicant representative Mike Vicks of Monte Vista Consulting acknowledged reading and being in agreement with the conditions of approval outlined in the Staff Report. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(3:49:05) – MOTION: I move to approve SUP-19-083-1 to amend SUP-19-083 based on findings and subject to conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Preston
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.3 SUP-18-111-1 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO A SPECIAL USE PERMIT FOR A GAMING (UNLIMITED) USE TO ALLOW AN INCREASED BUILDING SIZE, A MODIFIED FAÇADE,

AND A MODIFIED SITE PLAN ON 0.98± ACRES ZONED RETAIL COMMERCIAL, LOCATED AT 2811 S. CARSON STREET, APN # 009-112-25.

(3:49:43) – Chairperson Sattler introduced the item. Ms. Sullivan gave background and presented the agenda materials which are incorporated into the record and recommended approval, noting that they were made the seven required findings for the modifications. She also clarified for Commissioner Esswein that the footprint would change; however, the site plan would stay the same. She also acknowledged the presence of applicant representative Mike Railey of the Christy Corporation.

(3:52:54) – Mr. Railey introduced himself and noted that both he and the applicant were in agreement with the conditions of approval stated in the Staff Report. There were no Commissioner or public comments; therefore, Chairperson Sattler entertained a motion.

(3:53:30) – MOTION: I move to approve SUP-18-111-1, a request for an amendment to SUP-18-111, based on the findings and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Esswein
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.4 SUP-19-162 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW FOR A 6-FOOT TALL WALL WITHIN 5 FEET OF THE PROPERTY LINE ON THE STREET SIDE-YARD OF A PROPERTY, ZONED MULTI-FAMILY APARTMENT (MFA), LOCATED AT 150 EAST ROLAND STREET, 009-197-02.

(3:54:05) – Chairperson Sattler introduced the item. Ms. Sullivan gave background, presented the Staff Report with the accompanying documentation, and responded to clarifying questions. She also referenced the late material presented into the record, noting that the applicant had worked with Development Engineering and had found that the right-of-way on Roland Street was wider than necessary; therefore, a five-foot strip of street may be abandoned and landscaping may be a way of softening the six-foot fence. Ms. Sullivan recommended modifications to approval items eight and nine per her memorandum, and suggested landscaping to obscure the fence or wall, in addition to the suggested abandonment. Vic Chair Borders received confirmation that “the landscape almost negates what the fence is made of”.

(4:00:00) – Applicant Representative Rachael Kryder of Resource Concepts, Inc. noted her acceptance of the Conditions of Approval outlined in the Staff Report. Commissioner Wiggins inquired about the transition of the fencing from the existing development to the current development, and Ms. Kryder noted that they had not addressed it yet; however, she believed that “the landscaping should soften [the transition] as well.” Commissioner Dawers was informed that the wall will be the back wall of the yards

for the ten units that back into Roland Street. Chairperson Sattler referenced a letter inquiring about the fence, and incorporated into the record, and entertained public comments; however, none were forthcoming. Ms. Sullivan informed Vice Chair Borders that this Commission would improve the previously-discussed abandonment, should it be considered.

(4:03:42) – MOTION: I move to approve SUP-19-162 based on the ability to make the required findings and subject to the conditions of approval.

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Tingle
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.5 SUP-19-164 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A RESIDENTIAL USE IN A NON-RESIDENTIAL ZONING DISTRICT TO CONSTRUCT 126 APARTMENT UNITS ON A 6.13-ACRE PARCEL ZONED NEIGHBORHOOD BUSINESS (NB), LOCATED ON THE SOUTH SIDE OF LITTLE LANE, WEST OF JANAS WAY, APN 004-015-06.

(4:04:14) – Chairperson Sattler introduced the item. Ms. Sullivan entertained disclosures. Commissioner Dawers noted that his company, Superior Door and Window, was a bidder on part of the project for one of the contractors on the item; therefore, he would abstain from voting due to a disqualifying conflict. Commissioner Preston disclosed that as a commercial real estate agent for Coldwell Banker Select, and has occasionally co-listed property with an agent of the applicant; however, she noted that they do not share “offices or staff” and are independent contractors. Commissioner Preston also noted that she did not have a co-listing on the project and would not receive any compensation; however, she was “making this disclosure in the best interest and transparency” and that she would be voting on the item as she did not have a disqualifying conflict.

(4:06:32) – Ms. Sullivan presented the Staff Report and the accompanying documents and recommended approval since Staff was able to make the seven required findings in the affirmative. She also noted that applicant representative and project architect Terry Novak was present and ready to answer questions. In response to a question by Commissioner Tingle, Mr. Pott y explained that the FEMA submission would occur after the City’s Storm Water Engineer reviews the applicant’s flood zone analysis and proposed changes. Commissioner Tingle expressed concern over the traffic on Little Lane and Saliman Road, and Mr. Pott y believed that the impact study will be updated should the levels of service decline. Ms. Sullivan noted that the School District had requested utilizing their previously-submitted comments. Chairperson Sattler invited the applicant to come forward.

(4:13:32) – Architect Terry Novak introduced himself and noted that he was in agreement with the Conditions of Approval Outlined by Staff. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(4:14:24) – **MOTION:** I move to recommend approval of SUP-19-164 based on the ability to make the required findings, and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (6-0-1)
MOVER:	Borders
SECONDER:	Wiggins
AYES:	Sattler, Borders, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	Dawers
ABSENT:	None

E.6 AB-19-168 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR AN ABANDONMENT OF A PUBLIC RIGHT-OF-WAY, SPECIFICALLY A PORTION OF LAMOTTE DRIVE, BEGINNING AT THE REAR PROPERTY LINES OF 3493 ARROWHEAD DRIVE (APN 005-052-03) AND 3505 ARROWHEAD DRIVE (APN 005-053-03), AND EXTENDING TO APPROXIMATELY THE EASTERN PROPERTY LINE OF 3321 LA MOTTE DRIVE (APN 005-053-12).

(4:15:21) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report and noted Staff’s support of the abandonment, “but we think we need some street improvements before we can actually abandon the road to accommodate these turnarounds.” She also outlined the abandonment process which would require the Planning Commission’s recommendation to the Board of Supervisors based on the seven required findings. Ms. Sullivan acknowledged the presence of the applicant’s representative, Derek Wilson of the Rubicon Group and explained to vice Chair Borders that the City will most likely rename one of the streets. Ms. Sullivan and Mr. Pottéy also responded to clarifying questions from the Commissioners.

(4:14:48) – Mr. Wilson stated that they are in agreement with the conditions of approval. He also clarified for the Commission that “everything proposed for abandonment is unbuilt now” and that items noted in Condition five are also being addressed by the applicant. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(4:19:51) – **MOTION:** I move to recommend that the Board of Supervisors approve AB-19-168, based on seven findings and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Sattler
SECONDER:	Borders
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.7 SUP-19-177 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A RESIDENTIAL USE IN A NON-RESIDENTIAL ZONING DISTRICT TO CONSTRUCT 12 APARTMENT UNITS ON A 0.63-ACRE PARCEL ZONED NEIGHBORHOOD BUSINESS-PLANNED UNIT DEVELOPMENT (NB-P), LOCATED ON THE SOUTHEAST CORNER OF STAFFORD WAY AND SILVER SAGE DRIVE, APN 009-563-07.

(4:20:32) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report, incorporated into the record, and responded to clarifying questions. She also recommended approval of the Special Use Permit based on having met the seven required findings. Applicant Jeff Pisciotta, and applicant representatives Christopher Moltz and Mark Johnson of Stanka Consulting LTD introduced themselves and noted their agreement to the conditions of approval by Staff. Vice Chair Borders received clarification that the apartments touching Heaton Way will have private backyards and will have fences of undetermined height. Mr. Pisciotta explained that he had contacted the homeowners association (HOA) of the Heaton Way properties but had not heard back from them regarding maintaining that portion of their property. Commissioner Dawers was informed that the trash will be collected in cans and not in large receptacles. Mr. Moltz stated that there would be private garage parking for each apartment (12 total), 12 assigned uncovered parking spaces, and three unassigned guest parking spaces. Chairperson Sattler entertained public comments.

(4:40:45) – Carl Bolton introduced himself as “the president of the homeowners association that’s adjacent to this development, on the south and the east portion.” Mr. Bolton objected to the two-story units being planned, and believed “there’s never enough parking spaces in an apartment complex”, adding that only six or seven cars may be allowed on Stafford Way.

(4:43:31) – William Reinbolt introduced himself as a Stafford Way resident, and objected to the two-story complex and the anticipated traffic.

(4:45:06) – Kathleen St. Clair introduced herself as a Heaton Way resident and spoke in opposition to the proposed development and believed people will start parking on her street which she noted was a private street.

(4:46:12) – Katherine Borde introduced herself as a Heaton Way resident and noted that she had bought two units “because of the beautiful views” and did not wish to see her views obstructed with the two-story apartments, and she did not want “a high-transient, packed-in group across from where I live.” Ms. Borde also stated that many residents on Heaton Way had not received notices regarding the development

(4:48:57) – Sandra Stephen introduced herself as a 13-year resident living on Heaton Way and expressed opposition to the two-story buildings as well.

(4:50:28) – Don Fox introduced himself as another Heaton Way resident and explained that he was speaking on behalf of his wife, who owned the complex they were living in. Mr. Fox was also concerned about losing their view and the extra cars that would drive through the neighborhood or cause parking problems.

(4:56:06) – Gene Carhart introduced himself and spoke against having apartment windows looking down on Heaton Way.

(4:56:59) – Chairperson Sattler entertained additional comments; however, none were forthcoming. He also addressed the issue of notifications, stating that they were done per City requirements. The Chair also expressed concern that only three guest parking spaces would be available. Ms. Sullivan clarified that windows would face Heaton Way. Commissioner Esswein was informed that the maximum building height in a commercial district was 26 feet, the same height proposed by the developer, and offered to explain the allowable uses in a commercial zone. Chairperson Sattler explained that “although views are nice to have, there’s no guarantee on adjacent property that your view is not going to be blocked.” Commissioner Esswein recommended towing “a car that isn’t supposed to be there” adding that he had noticed “any number of duplexes and any number of two-story units in this immediate neighborhood...this is a permitted use with a Special Use Permit”.

(5:03:59) – Commissioner Tingle believed that this development would not address the issue of affordable housing and Chair Sattler noted “that’s really not in our control to tell a developer what he has to put in affordability-wise.” Commissioner Preston called the development an “infield project”, which she believed would be attractive for the neighborhood. Commissioner Dawers believed the open space is minimal; however, after driving in the neighborhood, he believed the project “meshes perfectly with the surrounding areas” and that it was “a pretty good buffer between single-family homes and light commercial [zoning]”. Chairperson Sattler entertained further discussion, and when none were forthcoming, a motion.

(5:08:13) – MOTION: I move to recommend approval of SUP-19-177 based on the ability to make the required findings, and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Dawers
SECONDER:	Preston
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(5:08:44) – Mr. Plemel noted that this action was the final decision on the Special Use Permit application unless appealed which could be filed within 10 days from this date, by contacting the Planning Division.

(5:09:34) – Chairperson Sattler recessed the meeting.

(5:18:54) – Chairperson Sattler reconvened the meeting and noted that the Commission would address agenda item E-9 prior to item E-8. A quorum was still present.

-- THE FOLLOWING ITEM WILL BE HEARD NO EARLIER THAN 5:30 PM --

E.8 SUP-10-115-2 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE ONE YEAR REVIEW OF THE APPROVAL OF A MODIFICATION TO A SPECIAL USE PERMIT FOR AN ASPHALT PLANT ON PROPERTY ZONED GENERAL INDUSTRIAL, LOCATED AT 8013 HIGHWAY 50 EAST, APN 005-611-35.

(5:33:01) – Chairperson Sattler introduced the item and explained the meeting format to the audience, noting that public comment will take place after the Staff and the plant operator presentations; however responses will be reserved until after all the comments have been heard. Ms. Sullivan presented the Staff Report, incorporated into the record, and responded to clarifying questions. She also clarified for Chairperson Sattler that this item was agendaized as a one-year review of the approval of the modification of the Special Use Permit, and confirmed that in a one-year period there had been 226 complaints.

(5:42:35) – Business Operator Robert Matthews introduced himself as a South Curry Street resident and explained that many of the calls had been during non-operational hours, and that he had been running the plant for “two nights this year”. He also confirmed for Commissioner Dawers, that he had been using an additive [for odor mitigation] “since the last meeting, non-stop”. Chairperson Sattler reiterated the public comment format and expectations and invited the public to comment.

(5:45:00) – Michele Busk introduced herself as a resident of Traci Lane in Mound House and stated that she “got immediately nauseated; it was so strong” upon walking outside of her house that morning from the odor. She stated that “they were cooking about a week and a half ago at night. They were cooking the night before last. I have woken up several times at 3:00 in the morning, as they start cooking then. It makes a horrible sound. But most of all, I can’t breathe, I can’t go outside, I am in my house, all my windows are closed.” She stated that she is forced to close “everything” because she has woken up at night “coughing, and choking, and not being able to swallow.” She requested to know what the chemicals are that “they are putting in to stop the smell,” as they are not stopping the smell, and she believes they may be “more dangerous than the smell.” Ms. Busk mentioned her concern for the property value of her home and stated that no one had told her about the asphalt plant despite buying the property after Mr. Matthews built it. She also stated that she would invite “anybody” to her house to smell the odor firsthand. She stated that she “called this office so many times. I’ve called NDEP office so many times, so they said ‘start calling every day.’” Ms. Busk commented on how the law that Ms. Sullivan referred to should be changed in her opinion. She also mentioned how she’d get a lawyer if she could afford to do so.

(5:49:19) – Judy Lucas introduced her as a resident of Marianne Way in Mound House and thanked the Commission, NDEP, and Code Enforcement for trying to help the residents involved. Chairperson Sattler reminded Ms. Lucas to remain on topic, and Ms. Lucas stated how there were “a lot of angry people” at the meeting, and she was trying to “stop them from being so angry.” She stated that this was approximately the third or fourth time many of the residents had attended the meeting regarding the asphalt plant, and she did not “know how this man could do what he’s doing” to them and to their children. She commented that she is “so worried about these little children in our neighborhood. Yes, the smell is there, but what about the ashes? Where do these ashes all go? And they’re toxic.” Ms. Lucas referenced a document from OSHA “how bad it is.” She stated that she would not be able to afford

another house and welcomed the Commission members to her house to experience the asphalt plant firsthand. Ms. Lucas called the applicant a “terrible, terrible man” and mentioned how he runs the plant at times he was not directed to. She stated that “he knows how he can do his cooking ... and have it shut down before NDEP gets there ... He just does not care ... The time that he started, we were Carson City, and nobody bothered to look over the hill to see us, and we were there, and I don’t understand how that can happen ... We’re all getting sick ... If I’m getting sick, what’s happening to children?”

(5:53:29) – Chairperson Sattler reminded those commenting to keep comments at about three minutes or less.

(5:53:34) – Melanie Harris introduced herself as a resident of Marianne Way in Mound House and stated that because she works graveyard shifts, she leaves for work late and has smelled the asphalt plant when leaving as well as in the morning when she has come home to indicate that Mr. Matthews is cooking at night. She stated that the residents were never notified about the plant. She mentioned how many residents were forced to “tape up” their swamp coolers, and that she has had to buy a portable one because she has not been able to use her swamp cooler in three years. She stated that they “can’t sell our houses because we would disclose [the effects of the asphalt plant].” She showed pictures of the smoke from the asphalt plant to the Commissioners and indicated how the smoke goes over the hill and into her neighborhood. Ms. Harris stated that “no one is helping” them and had not in the three years the plant has been in operation, and they “should be rezoned or [Mr. Matthews] should be out of there.”

(5:55:19) – Kaila Lopez introduced herself as a resident of Mound House and stated that she has lived in Mound House her entire life, and her kids are “growing up there.” She stated that she was not warned about the asphalt plant, and she has been on short term disability “pretty much this whole year.” She commented on how she could not open her windows, and the kids could not play outside or go to the park nearby because of the plant. She stated that the smell from the plant “is a really strong smell. I don’t think that he realizes it.” She referred to the pictures taken by Ms. Harris and stated that she has “seen it worse where I’m coming from Dayton, and our whole area, even further down, is just smoke. It is unbearable how bad it is.”

(5:57:17) – Cindy Jones introduced herself and stated that she and her husband had retired in the neighborhood recently to be closer to their daughter. She noted that she and her husband were excited about relocating there, and her husband has chronic obstructive pulmonary disease (COPD) and had been “managing it very well.” Ms. Jones stated that her husband had been at Quick Care every month for breathing, since August, and his medications had been changed. She commented that the “fumes are one thing,” but they “didn’t even know what was going on,” and her husband had mentioned to her the sounds from the plant that could be heard “all night long.” She stated that they cannot sell, although she had realized the long-term effects of living near the plant, and they would not want to because they “love it here.” She also pointed out Fernley’s use of the regenerative thermal oxidizer to “depreciate this stuff over many years.” She stated that while she did not want the applicant to leave, she was afraid of losing her husband, who is 71-years-old and in “very good health,” and he had been fatigued from what she believed was the effects of the plant.

(5:59:51) – Lynne Stillman introduced herself as a resident of the Carson Highlands Mobile Home Park in Mound House, and she stated that “the fumes have a tendency to lay in the lower areas,” which she indicated is where she lives. She pointed out that that morning “it was so bad, which it usually is on a

daily basis and in the evenings also that I have a previous lung problem where I had a lung collapse twice ... I know now that with these fumes I can tell as soon as I open a door or a window that I can feel the heaviness in my chest, and I also get migraines from these fumes, and I really think it's time that they do something about it ... I wanted to let you know that it's definitely a problem in my area."

(6:01:00) – Octavio Juarez introduced himself as a resident of Mound House and stated that he is translating for his father. He commented that every time in the morning that he wakes up to go to school, "the pain is really strong" and explained how his eyes burn, and his head hurts "really bad" when he wakes up on the weekends. He also noted that the plant affects his little brother more because he has asthma.

(6:01:54) – Ed Wawrytko introduced himself as the owner of Ed's Custom Sheds in Mound House and stated that he lives in his shop. He believed that Mr. Matthews had been running his product "straight through without using the bag house" and explained that the bag house refers to the filter, and that the bag house is being avoided. He noted that he noticed nothing coming out of the bag house stack while there had been a huge amount of dust and debris coming out where the trucks were being loaded. He stated that Mr. Matthews was getting his product "anyway [he] can" while the residents were the ones "suffering from it." He mentioned having seen "big flumes of dust going over the houses" and a "plume of dust" as he was traveling that day, and that the streak of sunlight showed that the fumes were a "brownish color." He requested a field inspector go to inspect Mr. Matthews's plant "immediately." He also stated that "what [Mr. Matthews] is doing to [the residents] is ungodly."

(6:04:39) – Loyaul Fraker introduced himself as a 30-year resident of Mound House and mentioned that the asphalt plant could not be "grandfathered in." He stated that Monday through Friday, sometimes through Saturday, it is "unbelievable how loud" the plant is in the neighborhood, and the smoke comes through the neighborhood to the point that "you can't even see the houses down the street" when the wind is "just right." He called the situation "asinine." He stated that although he and the other residents are in a different county, they are "the ones suffering" and "nobody in Carson City is suffering from this."

(6:06:13) – Dave Lockhart introduced himself as a resident of Mound House and affirmed what the other commenters had stated. He stated that he smells the emissions from the plant "every morning" when he walks out his front door for work at 8:00 a.m. He also commented that he believed that Mr. Matthews is running the plant "outside his parameters at night," as Mr. Lockhart mentioned he works on a lot of hobbies at night in the garage and the backyard, and he can still smell the fumes at approximately 8:00 p.m. – 10:00 p.m. He stated that people that live on Linehan Road that mentioned to Mr. Lockhart having seen plumes from the plant in the air. He requested that the asphalt plant get shut down or "clean the stuff up." He pointed out that his sense of smell is "not that good, so if [he is] smelling it, [he] can't imagine [how] it is for people who have a normal sense of smell. It's going to be a lot worse, and it's not healthy for us."

(6:07:29) – Melissa Fraker introduced herself and stated that she had "been here ever since this has started." She stated that her lungs had been getting "super, super bad." She commented that she had the plant on film running at 3:00 a.m. and at other unpermitted times. She noted herself and others being unable to breathe, and the air quality emissions had been up to 20 percent according to Ms. Fraker. She stated that Mr. Matthews shuts the plant down for fifteen minutes to comply with the guidelines, and he

is “well aware of what he does ... in the operations area.” She requested information on how far an asphalt plant could be from a community, and she noted that she did not know “why we are going on 1975 ratings when now we are in 2019.” The public applauded her statement. She also commented that “it’s over the period of time where we can live comfortably.” Ms. Fraker brought to the Commission’s attention a petition with 75 signatures, and Chairperson Sattler advised Ms. Fraker that the Commission could not take her petition at that time. Ms. Fraker thanked the Commission members for hearing her and requested that they “please help” the residents.

(6:12:00) – Jan Wiley introduced herself as a resident from Traci Lane in Mound House, and she pointed out the Special Use Permit that had been modified for the asphalt plant to modify the hours of operation, and that Mr. Matthews was not abiding by the indicated hours according to those that had commented. She inquired about when Mr. Matthews could run the plant, and Chairperson Sattler stated that the Commission would take input and later respond with answers. Ms. Wiley informed the Commission that Mr. Matthews “does run on Saturdays, and sometimes you want to enjoy your backyard on Saturdays, and you can’t.”

(6:12:58) – Juan Delgado introduced himself as a resident from Chari Drive in Mound House, and stated that back when he and his wife purchased their house in 2003, it was quiet and there were no smells in their neighborhood, but now “we can’t even go outside, it’s so bad.” He commented that one of his children is still living with him, and Mr. Delgado and his wife have thought about selling the property.

(6:13:52) – Rosa Irigoyen introduced herself as a resident from Jenni Lane in Mound House and stated that the fumes “are really so bad” and they had been “bothering” the residents in the area.

(6:14:50) –Matthew Wilkie introduced himself as a “brand new home owner in the community” and stated that he had purchased his house approximately a month ago and had not been informed by his realtor about the asphalt plant. He commented that “it is almost a constant daily struggle and process” and he “almost regret my decision to purchase in this community” despite him “really looking forward to it” and it being “a closer commute” to his work. He mentioned that the animals had also been affected by the plant and noted his dog had been wheezing and coughing more. He stated that the product Mr. Matthews had been running for a year was “clearly not” working, and Mr. Matthews “is profiting while we’re suffering. It should be on his dime to get this fixed.”

(6:17:04) – Lyon County Code Enforcement Officer David Scott introduced himself and noted all the complaints he had received, along with inquiries from several organizations, including the Lyon County Board of Commissioners and the Planning Department. He wished to hear the Commission’s decision to take back to “the people I work for”.

(6:18:12) – Chairperson Sattler relayed his experience of working with an asphalt plant in the past, adding that he had personally experienced the strong odor of Mr. Matthews’ plant and believed “if there’s anything we can do, I think we have to try to make an effort to try and make something of this issue” to be good neighbors. Ms. Sullivan reminded the Commission that in October 2018 they had crated the following condition of approval (#17): *The operator shall utilize Ecosorb in operations to suppress odors.* However, the use of regenerative thermal oxidizer had not been one of the conditions. Commissioner Preston was informed that the following operating hours were approved in 2018 as condition of approval #13: *Operating hours are to be from 6:00 a.m. to 6:00 p.m., Monday through*

Saturday. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. The applicant may work at night or on a Sunday up to 30 times in a calendar year. When work is to occur at night or on a Sunday, the operator shall advise the Community Development Director in writing 72 hours prior. Ms. Sullivan stated that the Nevada Division of Environmental Protection (NDEP) and Carson City Code Enforcement had been to the plant several times to monitor start times and had been unable to find violations. Commissioner Esswein noted that the issue was the plant’s inability to control the odor; therefore, he believed that condition #17 should either change to require the use of the regenerative thermal oxidizer or “move to revoke the permit”. Mr. Johnson clarified that “revocation is not an option tonight...there’s a specific process laid out in Carson City Municipal Code (CCMC) for revocation.” Ms. Sullivan suggested amending condition of approval (#17) to state: *Operator shall utilize a regenerative thermal oxidizer.* Commissioner Esswein recommended not permitting Mr. Matthews to operate until installing the oxidizer. Ms. Sullivan recommended requesting that “the Community Development Director begin an investigation into the Special Use Permit” as the first step towards the revocation process.

(6:26:45) – Commissioner Dawers recommended not having the entire plant operate without the oxidizer, adding that “a year ago we promised these people that we would get the smell taken care of.” Ms. Sullivan suggested inserting finding #2, compatibility with the neighborhood as part of the motion. She also reminded the public that Mr. Matthews can appeal this evening’s decision. Chairperson Sattler entertained a motion. Commissioner Dawers was informed that tonight’s decision will be revisited in a year, as outlined in the conditions of approval. Mr. Plemel explained how the noticing occurs between Carson City and Lyon County.

(6:29:07) – MOTION: “I’d like to propose that we amend SUP 10-115-2, to amend conditions 13 to eliminate night operations except for emergencies by striking: *The applicant may work at night or on a Sunday up to 30 times in a calendar year. When work is to occur at night or on a Sunday, the operator shall advise the Community Development Director in writing 72 hours prior,* and revising condition 17 to require the installation of the regenerative thermal oxidizer, and prior to any continued use of this facility that equipment will be installed.”

(6:24:20) – Vice Chair Borders inquired about Mr. Matthews’ business commitments since he would be unable to operate the plant until the new equipment is installed. Mr. Plemel clarified that the conditions of approval will be effective after the appeals period of 10 days; however, should Mr. Matthews decide to appeal, the outcome will be effective after the final decision by the Board of Supervisors. Ms. Sullivan recommended adding a date to condition of approval 18.

(6:39:04) – Commissioner Esswein amended his motion to include a date of October 2020 for the next review of the Special Use Permit. The seconder accepted the amendment. Chairperson Sattler called for the vote.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Sattler
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(6:40:20) – Commissioner Preston recommended reporting any odors in the next 10 days because of inversions at this time of year that exacerbate health conditions. Commissioner Dawers suggested contacting U.S. House and Senate elected officials as well.

(6:41:20) – Mr. Johnson advised that any request for the Community Development Director to investigate into possible revocation must be agendaized for the December 2019 meeting.

E.9 MPA-19-178 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION TO MAKE RECOMMENDATIONS TO THE BOARD OF SUPERVISORS REGARDING THE ANNUAL MASTER PLAN REPORT.

(5:19:22) – Chairperson Sattler introduced the item. Mr. Plemel gave background and reviewed a presentation, incorporated into the record, highlighting the Planning Staff deliverables concerning the Commission’s annual recommendations to the Board of Supervisors regarding the implementation of the Master Plan. Mr. Plemel, along with Mr. Pottéy, also responded to clarifying questions by the Commissioners, especially regarding water resources. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(5:32:40) – MOTION: I move to recommend to the Board of Supervisors acceptance of the Master Plan annual report as presented by Staff.

RESULT:	APPROVED (7-0-0)
MOVER:	Sattler
SECONDER:	Borders
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

F. STAFF REPORTS (NON-ACTION ITEMS)

(6:45:10) – Mr. Plemel updated the Commission on the Title 18 updates discussed during the first Board of Supervisors meeting in November. He also noted that the workshops will resume in January of 2020, and reminded the Commission that the next Planning Commission meeting will take place on Tuesday, December 18, at 3:30 p.m. with the Andersen Ranch Subdivision discussion agendaized for a 5:30 p.m. start time.

- F.1 - DIRECTOR'S REPORT TO THE COMMISSION.**
- FUTURE AGENDA ITEMS.**
- COMMISSIONER REPORTS/COMMENTS.**

(6:49:02) – Chairperson Sattler indicated that he would remain on the Commission until the sale of his house. Commissioner Esswein recommended postponing the Andersen Ranch discussion until January 2020 so he can be present.

G. PUBLIC COMMENT

There were no public comments.

H. FOR POSSIBLE ACTION: FOR ADJOURNMENT

(6:50:40) – MOTION: Chairperson Sattler adjourned the meeting at 6:50 p.m.

The Minutes of the, November 11, 2019 Carson City Planning Commission meeting are so approved this 17th day of December, 2019.

MINUTES
Regular Meeting
Carson City Planning Commission
Wednesday, February 26, 2020 ● 5:00 PM
Community Center Sierra Room
851 East William Street, Carson City, Nevada

Commission Members

Vice Chair – Charles Borders, Jr.	Commissioner – Alex Dawers
Commissioner – Paul Esswein	Commissioner – Richard Perry
Commissioner – Teri Preston	Commissioner – Hope Tingle
Commissioner – Jay Wiggins	

Staff

Hope Sullivan, Planning Manager
Benjamin Johnson, Deputy District Attorney
Dan Stucky, City Engineer
Heather Ferris, Associate Planner
Stephen Pottéy, Engineering Project Manager
Tamar Warren, Deputy Clerk

NOTE: A recording of these proceedings, the board’s agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record. These materials are on file in the Clerk-Recorder’s Office and are available for review during regular business hours.

The audio recording and approved minutes of this meeting are available on www.Carson.org/minutes.

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

(5:05:27) – Vice Chairperson Borders called the meeting to order at 5:05 p.m. Roll was called. A quorum was present. Commissioner Preston led the Pledge of Allegiance.

Attendee Name	Status	Arrived
Vice Chair Charles Borders, Jr.	Present	
Commissioner Alex Dawers	Present	
Commissioner Paul Esswein	Present	
Commissioner Richard Perry	Present	
Commissioner Teri Preston	Present	
Commissioner Hope Tingle	Present	
Commissioner Jay Wiggins	Present	

B. PUBLIC COMMENTS

(5:06:23) – Vice Chair Borders entertained public comments; however, none were forthcoming. Commissioner Perry introduced himself and briefed the Commission on his background, including

...serving on the Planning Commission in Elko, Nevada. He also noted that he would retire in April 2020 from his position as an administrator in the Nevada Division of Minerals.

C. FOR POSSIBLE ACTION: APPROVAL OF THE MINUTES – January 29, 2020, workshop minutes: January 22, 2020 [regular meeting minutes].

(5:08:01) – Vice Chair Borders introduced the item and entertained comments, corrections, or changes. Commissioner Tingle pointed out that the motion on page 12 of the January 29, 2020 did not indicate her “aye” vote.

(5:09:20) – **MOTION: Commissioner Tingle moved to approve the minutes of the January 22, 2020 Planning Commission Workshop minutes. Commissioner Dawers seconded the motion.**

RESULT:	APPROVED (5-0-2)
MOVER:	Tingle
SECONDER:	Dawers
AYES:	Borders, Dawers, Tingle, Esswein, Wiggins
NAYS:	None
ABSTENTIONS:	Perry, Preston
ABSENT:	None

(5:09:54) – **MOTION: Commissioner Esswein moved to approve the minutes of the January 29, 2020 Planning Commission meeting with the noted correction. Commissioner Preston seconded the motion.**

RESULT:	APPROVED (6-0-1)
MOVER:	Esswein
SECONDER:	Preston
AYES:	Borders, Dawers, Tingle, Preston, Esswein, Wiggins
NAYS:	None
ABSTENTIONS:	Perry
ABSENT:	None

D. MODIFICATION OF AGENDA

(5:10:27) – Vice Chairperson Borders introduced the item. Mr. Plemel noted that there were no changes to the agenda. Vice Chair Borders reminded the public that agenda item E.6 will not be addressed until 6 p.m.

E. MEETING ITEMS

PUBLIC HEARING

E.1 AB-2020-0001 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A RIGHT-OF-WAY AND ACCESS EASEMENT ABANDONMENT ON PROPERTY LOCATED AT 4110 COUNTY LINE ROAD, APN 007-201-05.

(5:11:30) – Vice Chairperson Borders introduced the item. Ms. Sullivan presented the Staff Report and accompanying documents, all of which are incorporated into the record. Vice Chairperson Borders entertained public and Commissioner comments and, when none were forthcoming, a motion.

(5:13:06) – MOTION: Commissioner Esswein moved to recommend that the Board of Supervisors approve AB-2020-0001, based on the findings and subject to the conditions of approval contained in the Staff Report. Commissioner Wiggins seconded the motion.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Wiggins
AYES:	Borders, Dawers, Tingle, Preston, Esswein, Wiggins, Perry
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

PUBLIC HEARING

E.2 LU-2019-0082 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A SIGN ON PROPERTY ZONED PUBLIC COMMUNITY (PC), LOCATED AT 813 NORTH CARSON STREET (CHILDREN’S MUSEUM), APN 002-164-01.

(5:13:36) – Vice Chairperson Borders introduced the item. Ms. Sullivan presented the Staff Report and accompanying photographs, both of which are incorporated into the record, and responded to clarifying questions. The Applicant, Children’s Museum Board President Casey Gilles, introduced herself as well as the Children’s Museum Director Christine Brandon and Steve Reynolds of Sign Pro. Ms. Gilles and Mr. Reynolds clarified the measurements of the sign and concluded that the height would be roughly seven feet, two inches, and suggested language to indicate the sign would not exceed the height of eight feet. Vice Chairperson Borders entertained public comments and when none were forthcoming, a motion.

(5:20:08) – MOTION: Commissioner Dawers moved to approve LU-2019-0082, based on ability to make the required findings and subject to the conditions of approval contained in the Staff Report. The motion was seconded by Commissioner Preston

RESULT:	APPROVED (7-0-0)
MOVER:	Dawers
SECONDER:	Preston
AYES:	Borders, Dawers, Tingle, Preston, Esswein, Wiggins, Perry
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

PUBLIC HEARING

E.3 ZA-2020-0002 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A ZONING MAP AMENDMENT TO CHANGE THE ZONING FROM CONSERVATION RESERVE TO SINGLE FAMILY 1 ACRE (SF1A) FOR PROPERTIES CREATED AS PART OF THE NORTH CANYON ESTATES AND LOCATED ON THE SOUTH SIDE OF KELVIN ROAD, AND ON CACHET COURT, CORRINNE COURT, GABRIELLE COURT, AND DANIELLE DRIVE, APNS 008-816-07 THROUGH 008-816-35 AND 008-814-05 THROUGH 008-814-13.

(5:20:41) – Vice Chairperson Borders introduced the item. Ms. Sullivan presented the Staff Report along with the accompanying zoning map, both of which are incorporated into the record, and responded to clarifying questions. In response to Commissioner Perry’s question, Ms. Sullivan confirmed that the residents within the indicated boundary of the zoning change received a courtesy notice as well as a formal notice for this public hearing. Vice Chairperson Borders entertained public and Commissioner comments and, when none were forthcoming, a motion.

(5:24:35) – MOTION: Commissioner Esswein moved to recommend to the Board of Supervisors approval of the zoning map amendment A-2020-0002 as presented. Commissioner Tingle seconded the motion.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Tingle
AYES:	Borders, Dawers, Tingle, Preston, Esswein, Wiggins, Perry
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

ITEMS E.4 and E.5

(5:24:24) – Vice Chairperson Borders introduced both items. Ms. Ferris presented the Staff Report with accompanying documents and photographs, all of which are incorporated into the record. Vice Chairperson Borders entertained Commissioner questions. Mr. Pottéy confirmed for Commissioner

Esswein that the stormwater facility would be maintained by the homeowners' association (HOA). In response to Commissioner Tingle's question regarding how a *minor arterial roadway* was defined, Mr. Pottéy stated that the Carson City Transportation Division has a map that designates the different streets based on volume and the City's Master Plan. He also informed Commissioner Esswein that there would be improvements made on Clearview Drive, and he believed there were existing improvements on Silver Sage Drive as well. Commissioner Tingle inquired whether a numerical calculation was used to determine if Clearview Drive is a minor arterial roadway, and Mr. Stucky explained that, although he did not remember the ranges, each roadway classification has a volume range, and the Carson City Transportation Division looks at forecasts and "what is looking to be done about the transportation networks over the City." He offered to provide Commissioner Tingle with that information.

(5:38:20) – In response to Commissioner Dawers' question, Mr. Pottéy stated that condition number 20 was based on the water system and how close other locations are where they can sample from the water mains. Commissioner Tingle pointed out the impact the zoning change would have on the Carson City School District and the affordable housing issue, as she was concerned if the development would meet any of the needs of the affordable housing shortage.

(5:40:10) – Louis Cariola Senior Planner at Manhard Consulting spoke on behalf of the Applicant, Mark Turner. He stated that they would not be disputing the conditions of approval at this time, although they did have some concerns with a requirement as worded. He provided an explanation of the design and clarified that there would be no on-street parking. Mr. Turner welcomed Commissioner Perry to the Board and indicated that they had no plans for relocating the overhead powerlines along Silver Sage Drive and Clearview Drive at this time. He referenced the project that they had done at Mills Landing, as there was also a high-voltage pass through that project, as well as the high cost of "undergrounding the powerlines". He stated the plants that are chosen for landscaping are those that are compatible height-wise with the other obstructions. Mr. Turner addressed the concerns with the private versus the public streets and stated that he was open to ideas on addressing the street maintenance issues. In reference to Commissioner Tingle's comment about affordable housing, Mr. Turner stated that the development was the most affordable way they could build attainable residences.

(5:55:26) – Commissioner Tingle suggested considering an impact fee to mitigate some of the road maintenance expenses, and Mr. Turner disputed that the big problem with the streets could not be solved with impact fees on new construction because "there is not much new construction left to be built in Carson City." Commissioner Tingle was concerned that with a median income of \$57,000 a year, first time homebuyers would not be able to afford to purchase the homes within the development. She mentioned that she belonged to a group that had addressed financing for affordable housing and offered to share that information with Mr. Turner.

(5:57:45) – Vice Chairperson Borders entertained public comments. Mary Siders introduced herself as a resident who lives in the South Point area of the development. She was concerned about the potential traffic when heading east on Clearview Drive and taking a left turn heading north on Silver Sage Drive with the lack of a turn lane, especially with the additional traffic from the development, as she believed

the corner was very narrow. She asked if Clearview Drive would be widened with a turn lane, and Vice Chairperson Borders stated that Staff would respond to her question after the hearing all public comments.

(5:59:09) – Michael Tanchek introduced himself as a resident on Clearview Drive and referenced a traffic study done approximately three years prior that indicated about 7,000 cars use Clearview Drive every day to suggest that traffic has been an issue. He mentioned that flooding from rain has been an issue as well and stated that, while it was a nice plan, he did not like the location of the development, nor did he believe it was compatible with the area. He believed the zoning should stay Retail Commercial, as he preferred to keep the area as is, since he moved to that area for that reason.

(6:06:02) – In response to Mr. Tanchek’s question, Ms. Ferris stated that the zoning for the property across Silver Sage Drive is single family one acre, and the Master Plan is medium density residential. Regarding the concerns with flooding and drainage, Mr. Pottéy stated that the development is not in a Federal Emergency Management Agency (FEMA) flood zone, and a technical drainage study will be required to show that the additional runoff is being detained. He stated that he had met with the City’s new Traffic Engineer and was informed there is not enough space on the north side to widen Clearview Drive. He also mentioned that the City’s Transportation Division did not believe a traffic impact study was necessary at this time. Mr. Plemel pointed out that the Carson City transportation plan looks at possible upcoming developments, the streets involved, their capacity, and accounts for future developments.

(6:08:50) – Vice Chairperson Borders entertained Commissioner discussion and remarked to Mr. Plemel how he did not believe it was a good idea to plan for every new development to have private streets and was not in favor of a growing trend of imposing the problems that the City has on the Developers and builders. Mr. Plemel stated that the Board of Supervisors would be discussing the street requirements the following day.

(6:11:35) – Commissioner Dawers did not believe there would be any through traffic in the development and thought that Staff was approaching the traffic situation fairly. He did not believe it was fair to put the burden on the builder for adequate schooling and classroom sizes. He was concerned about insufficient parking with two spots per unit. He was in favor of all other aspects, as he believed that the developers did “a pretty good job in creating a plan that is conducive to the local area with a nice buffer between commercial and residential.” While Commissioner Preston believed that the development plan was the best use for that piece of property, she was concerned about this development’s Special Use Permit (SUP) and the “bookmarking” of units and private roads since in some cases, they were never built. She also was not sure where the trash cans would be placed in the development. Commissioner Perry believed that the development was consistent with the Master Plan and agreed with Mr. Turner’s comment about how it is difficult to build affordable homes without decreasing the lot sizes. He also did not believe that the homeowners who pay property taxes should maintain their roads. There were no additional comments; therefore, Vice Chair Borders entertained appropriate motions for each item.

E.4 LU-2020-0001 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A 34-UNIT TOWNHOME DEVELOPMENT ON PROPERTY ZONED RETAIL COMMERCIAL (RC), LOCATED ON THE NORTHWEST CORNER OF CLEARVIEW DRIVE AND SILVER SAGE DRIVE, APN 009-125-12.

(6:19:39) – MOTION: Commissioner Preston moved to approve Special Use Permit LU-2020-0001 based on the ability to make the required findings and subject to the conditions of approval. Commissioner Esswein seconded the motion.

RESULT:	APPROVED (7-0-0)
MOVER:	Preston
SECONDER:	Esswein
AYES:	Borders, Dawers, Tingle, Preston, Esswein, Wiggins, Perry
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.5 SUB-2020-0001 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A TENTATIVE SUBDIVISION MAP TO CREATE 34 SINGLE FAMILY LOTS ON A 2.75-ACRE PARCEL ZONED RETAIL COMMERCIAL (RC) KNOWN AS SILVER VIEW TOWNHOMES, LOCATED ON THE NORTHWEST CORNER OF CLEARVIEW DRIVE AND SILVER SAGE DRIVE, APN 009-125-12.

(6:20:08) – MOTION: Commissioner Preston moved to recommend to the Board of Supervisors, approval of Tentative Subdivision Map SUB-2020-0001 based on the ability to make the required findings and subject to the conditions of approval, subject to the modification of Condition 27. The motion was seconded by Commissioner Esswein.

RESULT:	APPROVED (7-0-0)
MOVER:	Preston
SECONDER:	Esswein
AYES:	Borders, Dawers, Tingle, Preston, Esswein, Wiggins, Perry
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(6:20:55) – Vice Chair Borders recessed the meeting.

(6:29:51) – Vice Chair Borders reconvened the meeting. A quorum was still present.

-- THE FOLLOWING ITEM WILL BE HEARD NO EARLIER THAN 6:00 PM --

PUBLIC HEARING**E.6 SUP-10-115-2 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE REVIEW OF A SPECIAL USE PERMIT FOR AN ASPHALT PLANT AND AGGREGATE CRUSHING FACILITY ON PROPERTY ZONED GENERAL INDUSTRIAL, LOCATED AT 8013 HIGHWAY 50 EAST, APN 008-611-35.**

(6:30:01) – Chairperson Borders introduced the item. Commissioner Perry read into the record a prepared disclosure statement, advised of no disqualifying conflict of interest and that he would participate in discussion and action. Ms. Sullivan gave background on the item and presented the agenda materials which are incorporated into the record. She noted that the applicant had appealed the Planning Commission decision to the Board of Supervisors which, in turn, had sent the item back to the Commission in light of new information acquired by the Planning Division. Both Ms. Sullivan and Mr. Johnson addressed a letter by from Tahoe Western Asphalt (TWA) attorney Jeremy Clarke, of the law firm of Simons Hall and Johnston, incorporated into the record, and responded to the “unsupported accusations and insinuations” made in the letter.

(6:42:04) – Vice Chair Borders was informed that the Special Use Permit in effect was the one acted upon in October 2018. Ms. Sullivan referenced the staff report and stated that a memorandum from Code Enforcement, incorporated into the record, had noted that no violations on odors were detected on November 25 and 26, 2019. She also responded to clarifying questions regarding the Staff Report. Discussion ensued regarding odors and violations, and Saturday operations. Mr. Plemel indicated that Code enforcement had been visiting the site three times per week to develop a baseline data set after which the visits would be reduced. He also stated that they had requested assistance from Lyon County Code Enforcement. Mr. Simons noted that the majority of the complaints were made while the plant was not operating and that they were made by a few people. He also stated that the Commission had arbitrarily “imposed a two million-dollar piece of equipment (regenerative thermal oxidizer)”. TWA Attorney Mark Simons objected to the changes in the conditions of approval, which Ms. Sullivan clarified were recommendations by Staff. Vice Chair Borders entertained public comments, specifically regarding any changes since the November 2019 meeting.

(7:11:08) – Matthew Wilkie noted that he was a recent homeowner and that the smell was not “imaginary.” He also inquired about a five-year gap between obtaining a business license and the start of production at TWA.

(7:21:05) – Loyall Fraker introduced himself as a 30-year resident and explained that the asphalt residual smell lingered on. He also stated that the plant had operated on Sunday, November 24, 2019.

(7:22:23) – Dave Lockhart explained that he had experienced the odor at 10 p.m. while working on his cars.

(7:23:32) – Area resident Bob Lucas believed that the plant owner “is not telling his attorney the truth” and that “he doesn’t keep his word.” He also believed that the plant had been shut down for the winter.

(7:26:41) – Melanie Harris explained that with the approach of spring, the residents will not be able to use the outdoors. She invited the attorneys to visit and stay in their neighborhood.

(7:27:40) – Mr. Wilkie stated that the TWA general manager had admitted to violating the Special Use Permit conditions twice. He also quoted Mayor Crowell requesting the TWA attorneys to “fix this.”

(7:29:28) – Melissa Fraker informed the Commission of her background in construction and expressed frustration because her plants were dying, and she expected a speedy outcome. She also referenced a petition, incorporated into the record, noting that over 100 individuals had signed it.

(7:32:17) – Judy Lucas introduced herself and noted that she had “page after page” of call records. She also explained that they had only called when smelling the asphalt, adding that the winter months had been a relief because the plant was not in operation. Ms. Lucas expressed concern about a potential fire and the effect the plant has on the children. She also noted that a class action lawsuit was being considered and believed that the plant operator knew “how to beat the system.”

(7:37:36) – Mr. Lockhart spoke about the declining values of their homes and the decline of their health and happiness. He noted that particles landed on his cars as well.

(7:38:26) – Jerry Jones recommended having TV monitors around the asphalt plant.

(7:39:40) – Mr. Simons stated that they had provided signatures and contact information of individuals in the community who “are not complaining” and that they “do not have an issue with odors.” He believed in bringing a balance to the community and added that TWA did not burn its waste. Mr. Wilkie inquired whether the Commission was “obligated to protect the applicant.” Vice Chair Borders entertained additional comments and when none were forthcoming, he invited Ms. Sullivan to respond to the public comments.

(7:41:44) – Ms. Sullivan noted that the rock crushing and asphalt plant Special Use Permit was issued in 2011; however, the asphalt plant had not begun operations until 2014. She also reviewed the timeline of the expanded hours of operations with the condition of having an

annual review. She also reiterated the timeline of her follow-up after the 2018 Planning Commission meeting and the experts with whom she had consulted including NDEP and the asphalt plant in Fernley, Nevada. The information is also incorporated into the record. Mr. Plemel also reiterated the Code Enforcement Officer visit timelines.

(7:58:30) – Discussion ensued regarding the correlation of data including electrical usage versus calls. Commissioner Dawers believed the odor had been proven and he was aware that the enjoyment of the residents’ property had been interrupted. He also noted that he understood the legal ramifications of the investigation; however, he recommended shutting the plant while the investigation was proceeding.

(8:02:16) – Commissioner Perry stated that “we, Carson City, are not in the business of monitoring air or requiring different types of equipment on Class II air quality permits.” He concluded that the Carson City zoning is industrial; however, the Lyon County zoning is residential. He also referenced the conditions of approval that specify the use and enjoyment of the residents, adding that “everybody has the right to breathe clean air.” Ms. Sullivan clarified that the agenda item was to discuss the annual review of the Special Use Permit, amended in 2018. She also stated that the Commission had started “the show cause hearing process” but that the plant had not been operating now. She noted that five steps were required prior to a permit revocation. She also informed Commissioner Dawers that Staff were requesting the removal of the regenerative thermal oxidizer condition and the possible restoration of Condition 17 (addressing odors). Discussion ensued regarding the frequency of Code Enforcement visits and the results of the data generated from the visits. Commissioner Wiggins suggested specifying “no odors” in the conditions of approval. Further discussion ensued and Ms. Sullivan noted that the investigation was not the item in front of the Commission for this meeting.

(8:22:53) – Vice Chair Borders moved to replace Condition 17 with Staff’s recommendation of Condition 20 in the Permit. Commissioner Dawers recommended following Commissioner Wiggins’ suggestion of modifying Condition 17 to address odors. Ms. Sullivan suggested focusing on “performance” and not on redesigning the plant. Mr. Johnson cautioned the Commission that if they are not specific enough, they could be challenged for vagueness; however, he also agreed with Ms. Sullivan that the focus should be on performance. Commissioner Esswein suggested rewording the motion to have Condition 17 state: **The operators of the facility shall ensure that odors are not detectable beyond the property line.** Vice Chair Borders agreed to Commissioner Esswein’s suggested amendment and noted that the recommendation to add a condition would be Condition 19 and not Condition 20.

(8:28:20) – MOTION: Commissioner Esswein restated the motion to “modify Condition 17 of the Conditions of Approval voted on by the Planning Commission at its meeting of November 19, 2019 to read: *The operation of the facility shall require that odors are not detectable beyond the property line, and to add a Condition 19: City Code Enforcement Staff will monitor off-site odors a minimum of three times per month and maintain a detailed log. The log will be presented to the Planning Commission at its October 2020 meeting notwithstanding this: if Code enforcement Staff observes odors from the in the residential areas of Moundhouse three times, the review of the Special Use Permit shall be scheduled for the next available Planning Commission meeting for review of the Special Use Permit.*” The motion was seconded by Commissioner Dawers.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Dawers
AYES:	Borders, Dawers, Esswein, Perry, Preston, Tingle Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(8:29:48) Vice Chair Borders encouraged the residents of Moundhouse to voice their complaints when they encounter odors, and to also contact [Lyon] County.

E.7 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE ELECTION OF A PLANNING COMMISSION CHAIR AND VICE-CHAIR FOR A TERM BEGINNING AT THE PLANNING COMMISSION MEETING OF FEBRUARY 2020.

(8:31:08) – Vice Chair Borders introduced the item and entertained nominations for the position of Chair.

(8:31:31) – Commissioner Esswein moved to nominate Vice Chair Borders to the position of Chair. The motion was seconded by Commissioner Perry. There were no other nominations. The motion carried 7-0-0.

(8:31:57) – Commissioner Dawers offered to serve as Vice Chair. He also offered to nominate Commissioner Esswein who “respectfully declined” noting he had served both as Chair and Vice Chair multiple times.

(8:32:24) – Commissioner Esswein moved to nominate Commissioner Dawers to the position of Vice Chair. The motion was seconded by Chairperson Elect Borders. There were no other nominations. The motion carried 7-0-0.

F. STAFF REPORTS (NON-ACTION ITEMS)**F.1 - DIRECTOR'S REPORT TO THE COMMISSION**

(8:32:36) – Mr. Plemel updated the Commission on the approval of the Subdivision Map on Emerson Drive, noting that the Board of Supervisors had approved it after much discussion on private and public streets. He also reported that the Board had initiated the process to implement a moratorium on industrial hemp cultivation and product manufacturing, adding that further discussion will take place in the March Planning Commission Meeting. He also reminded the Board of the upcoming Title 18 workshop on March 4, 2020, at 3 p.m.

- FUTURE AGENDA ITEMS

(8:35:24) – Mr. Plemel noted that in addition to the industrial hemp moratorium, the Planning Commission will discuss several Special Use Permit requests and modifications in its March meeting.

- COMMISSIONER REPORTS/COMMENTS

(8:36:01) – Vice Chair Elect Dawers reported on a flagpole cell tower he had seen in Reno, and suggested looking into similar ones for Carson City. Chairperson Elect Borders encouraged escalating the private versus public street issues to the Board of Supervisors. In response to a question, Mr. Plemel clarified that a Special Use Permit does expire; however, once initiated, it usually “runs with the land.”

G. PUBLIC COMMENT

(8:39:37) – Chairperson Borders entertained public comments; however, none were forthcoming.

H. FOR POSSIBLE ACTION: FOR ADJOURNMENT

(8:39:50) – Vice Chairperson Borders adjourned the meeting at 8:39 p.m.

The Minutes of the, February 26, 2020 Carson City Planning Commission meeting are so approved this 29th day of April 2020.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 1

A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, February 6, 2020 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT:

Mayor Robert Crowell
Supervisor Stacey Giomi, Ward 1
Supervisor Brad Bonkowski, Ward 2
Supervisor Lori Bagwell, Ward 3
Supervisor John Barrette, Ward 4

STAFF:

Nancy Paulson, City Manager
Aubrey Rowlett, Clerk - Recorder
Stephanie Hicks, Deputy City Manager
Dan Yu, Assistant District Attorney
Tamar Warren, Senior Public Meetings Clerk

NOTE: A recording of these proceedings, the Board's agenda materials, and any written comments or documentation provided to the Clerk, during the meeting, are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours. All meeting minutes are available for review at: <https://www.carson.org/minutes>.

1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE

(8:30:10) – Mayor Crowell called the meeting to order at 8:30 a.m. Ms. Rowlett called roll and a quorum was present. First Christian Church of Carson City Pastor Dr. Ken Haskins provided the invocation. At Mayor Crowell's request, Deni French led the Pledge of Allegiance.

5. PUBLIC COMMENT

(8:32:20) – Deni French introduced himself and wished to expressed concern over a new 5G cellular communications tower that had been approved by the Planning Commission. Mayor Crowell informed Mr. French that per one of the laws passed in the last legislative session, the local governments did not have any control over “where they go, or how they go.” Mr. French believed that the side effects of 5G have not yet been determined and wished to see that they are not placed close to children. He also provided input on the Andersen Ranch and Lompa Ranch, stating that they were not “fit for consideration of development” and referenced an Article in the *Reno Gazette Journal* which had reported that the City of Reno received a “binding self responsibility contract freeing the City of potential liabilities.”

(8:35:57) – Reid and Joanna Kaiser spoke in reference to a letter they had sent to the Board of Supervisors, which was acknowledged by Mayor Crowell. Mr. Kaiser explained that the noticing he had received from the City was incorrect and explained that the water line being placed was too close to their fence line. He also commented on FEMA's approval process of floodplain maps. Ms. Kaiser explained that she was a schoolteacher and noted that

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 2

an excavator was their “original notification,” adding that the structure would bring their home value down. Mayor Crowell instructed the District Attorney’s Office to take a look at that public noticing process.

(8:46:52) – Judy Lucas wished to comment on item 23.B. Planning Manager Hope Sullivan explained that Tahoe Western Asphalt had appealed the Planning Commission’s decision; however, during an appeal, the Board of Supervisors “must restrict themselves to the record that was created at the Planning Commission.” She added that Staff had received new information since the last Planning Commission meeting which the Board could not consider at this time; therefore, Staff had requested the item referred to the February Planning Commission meeting for deliberation with the new information.

(8:48:04) – Ms. Lucas stated that “the asphalt is killing a lot of people in our track”. She acknowledged that the smell issue was being mitigated; however, she was not aware of any remedy for the falling ashes. Ms. Sullivan suggested taking public comment during item 23.B. She also offered to speak to those interested in the hallway. Mayor Crowell instructed all those present to speak on item 23.B that it will be heard shortly.

6. FOR POSSIBLE ACTION: APPROVAL OF MINUTES – JANUARY 2, 2020

(8:49:54) – Mayor Crowell introduced the item. **Supervisor Bonkowski moved to approve the January 2, 2020 with a date correction in the header. The motion was seconded by Supervisor Bagwell. Motion carried 5-0-0.**

7. FOR POSSIBLE ACTION: ADOPTION OF AGENDA

(8:50:34) – Mayor Crowell recommended addressing agenda item 23.B immediately after the Consent Agenda. There were no objections; therefore, Mayor Crowell considered the agenda adopted.

CONSENT AGENDA

(8:51:03) – Mayor Crowell introduced the Consent Agenda and entertained a motion. **Supervisor Bagwell moved to approve the consent agenda as published. Supervisor Barrette seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bagwell
SECONDER:	Supervisor Barrette
AYES:	Supervisors Bagwell, Barrette, Bonkowski, Giomi, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

CARSON CITY BOARD OF SUPERVISORS
Minutes of the February 6, 2020 Meeting
Page 3

8. FINANCE

8.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY AND THE STATEMENTS OF RECEIPTS AND EXPENDITURES THROUGH JANUARY 24, 2020, PER NRS 251.030 AND NRS 354.290.

ORDINANCES, RESOLUTIONS, AND OTHER ITEMS

9. ITEM(S) PULLED FROM THE CONSENT AGENDA WILL BE HEARD AT THIS TIME.

No items were pulled from the consent agenda.

10. CITY MANAGER

10.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE APPOINTMENT OF TWO MEMBERS TO THE ADVISORY BOARD TO MANAGE WILDLIFE, ONE TO FILL A POSITION RESERVED FOR A HUNTER, TRAPPER OR ANGLER OR A PERSON ENGAGED IN RANCHING OR FARMING IN CARSON CITY, FOR A PARTIAL TERM THAT WILL EXPIRE IN JULY 2021, AND ONE TO FILL AN AT-LARGE POSITION TO REPRESENT THE GENERAL PUBLIC OF THE CITY, FOR A TERM THAT WILL EXPIRE IN JULY 2022.

(9:20:52) – Mayor Crowell introduced the item and noted that Martin “Gene” Green had reapplied as a member-at-large and Corbett Fleming had submitted a new application.

(9:24:32) – Supervisor Bonkowski moved to appoint Martin “Gene” Green to the Advisory Board to Manage Wildlife for a term that will expire in July 2022. Supervisor Giomi seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Giomi
AYES:	Supervisors Bonkowski, Giomi, Bagwell, Barrette, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(9:25:42) – Mr. Green clarified for Supervisor Bagwell that one of the positions was to fill a vacancy due to a Board member being hired by the City. He also thanked the Board for the opportunity to serve on the Advisory Board to Manage Wildlife, noting that this would be a busy year due to more reporting of wildlife by residents who acquire video doorbells or cameras. Mayor Crowell thanked Mr. Green for his service on the Board.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 4

(9:27:55) – Mayor Crowell invited Mr. Fleming to the public comments table and wished to hear “a little about yourself”. Mr. Fleming considered himself a long-term Nevadan with a Chemical Engineering degree from the University of Nevada Reno (UNR) and wanted to “bring my enthusiasm for wildlife and the outdoors to a formal level.” There were no further questions for Mr. Fleming; therefore, Mayor Crowell entertained a motion.

(9:29:34) – Supervisor Giomi moved to appoint Corbett Fleming to the Advisory Board to Manage Wildlife for a term that will expire in July 2021. Supervisor Bagwell seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Giomi
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Giomi, Bagwell, Barrette, Bonkowski, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

11. FIRE

11.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A GRANT APPLICATION TO THE UNITED STATES FOREST SERVICE (USFS) THROUGH THE NEVADA DIVISION OF FORESTRY FOR THE HAZARDOUS FUELS-COMMUNITY PROTECTION GRANT FOR THE AMOUNT OF APPROXIMATELY \$233,712.50, WHICH INCLUDES A 10 PERCENT CASH MATCH BY THE CITY WHICH IS EXPECTED TO BE PROVIDED BY THIRD PARTIES.

(9:30:00) – Mayor Crowell introduced the item. Carson City Fire Marshal Dave Ruben presented the Staff Report, incorporated into the record, and recommended approval of the grant application submission. He stated that the estimated project cost is \$233,712.50; however, the approximately \$23,371.25 cash grant match will be funded by the property owners and at no cost to the City. He also clarified for Mayor Crowell that the grant will be managed by the City and the funds will be collected up front from the property owners. Mayor Crowell recommended looking up the area on Google Maps. He also entertained public comments and when none were forthcoming, a motion.

(9:37:32) – Supervisor Giomi moved to approve the submission of the grant application. Supervisor Bagwell seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Giomi
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Giomi, Bagwell, Barrette, Bonkowski, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 5

12. PURCHASING AND CONTRACTS

12.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING CONTRACT NO. 1718-083A SOUTH CARSON COMPLETE STREET PROJECT - CONSTRUCTION MANAGER AT RISK (CMAR) CONSTRUCTION SERVICES, WITH SIERRA NEVADA CONSTRUCTION, INC. FOR A TOTAL NOT TO EXCEED AMOUNT OF \$20,033,758.51, TO BE FUNDED FROM THE INFRASTRUCTURE TAX, REDEVELOPMENT REVOLVING, REGIONAL TRANSPORTATION, WATER, WASTEWATER, AND STORMWATER FUNDS.

(9:37:54) – Mayor Crowell introduced the item. Purchasing and Contracts Administrator Carol Akers presented the contract and its funding sources. Additionally, she noted several corrections including “updating the compensation section to address the contingency savings” such as adding the savings and removing the CMAR from the percentage split of the contingency in Section 5 of the contract. Ms. Akers also explained that in Section 10, the attorney fees would be reduced to \$125 per hour.

(9:40:19) – City Engineer Dan Stucky introduced Sierra Nevada Construction (SNC) Vice President Dan LeBlanc and Project Manager Emma Crossman. He also reviewed the CMAR process and its benefits to large projects, and gave background on the public meetings and the evolution of the project. Mr. Stucky explained that the project will not take away from the City’s road budget and that the funds noted in the Staff Report are strictly allocated for this project.

(9:45:38) – Supervisor Giomi inquired about the final 100 percent design approval and Mr. Stucky outlined the review process, noting that the Regional Transportation Commission (RTC) was the final technical review board. He also clarified for Supervisor Giomi that one lane will stay open in each direction [of Carson Street] South of Fairview Drive, with a center turn lane, throughout the project. He outlined a primary and a secondary detour between Fairview Drive and Fifth Street and reassured the Board that it was very important to make the landscaping happen; however, planting might occur in the spring timeframe, after the Nevada Day Parade.

(9:51:35) – Supervisor Bonkowski received confirmation that with the CMAR process, the contingency fees are lower since the expectations have already been set, and the risks addressed. Supervisor Barrette was informed that the City has for years “tried to leverage local funds as best we can to fund this project [and that] 70 percent of the funds have originated from non-local sources.” Supervisor Bonkowski addressed the comments regarding narrowing of the lanes, noting for the record that “the traffic counts at this point in time on East William Street, West of [Highway] 580 and South Carson Street are almost identical.” He believed that driving on that section of William Street will give Carson City residents an idea of what South Carson Street will look like when completed. Mayor Crowell was informed that the construction will be completed by the Nevada Day Parade. Mr. Stucky informed the Board that a grant application is in the works by Art and Culture Coordinator Mark Salinas for the art at the new roundabout.

(9:59:32) – Supervisor Bagwell wished to hear the benefits to the area residents and Mr. Stucky outlined the “significant investment” made towards the stormwater infrastructure which included pipes to alleviate flooding in the area, adding that it had been part of the Master Plan all along. He also discussed the fiberoptic infrastructure, part of the TIGER Grant, calling it “really key for our whole City.” Supervisor Bagwell commended the

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 6

efficiency provided by the project which had addressed infrastructure prior to building the roads in order not to tear them up in the future. Supervisor Giomi noted that “a fair amount of bicycle and pedestrian safety components” were incorporated into the project.

(10:04:16) – Mr. LeBlanc expressed their excitement to work on the project and noted that they were engaging their best teams on it. He also looked forward to completing the project by Nevada Day and to being members of this community. Mayor Crowell stressed the importance of maintaining good communications with the businesses in the project area. He also instructed SNC to respond to complaints within hours or on the same day. Mr. LeBlanc indicated that they are a flexible team and noted their desire to be good partners. Mayor Crowell requested Mr. Leblanc and Ms. Crossman’s cell phone and email contacts to be given to the Board members. Ms. Crossman thanked the Board and believed the corridor will be great when completed. Supervisor Bonkowski suggested having the heavy equipment accessible to the children on groundbreaking day, as it had been done in the past. Mayor Crowell entertained public comments.

(10:08:32) – Julie Lindstrom was informed by Mr. Stucky that the speed limit north of Stewart Street will be reduced to 25 miles-per-hour and between Stewart Street and Clearview Drive will be reduced to 35 miles-per-hour. Public Works Project Manager Tom Grundy stated that the speed limit south of Clearview Drive will be 50 miles-per-hour. Ms. Lindstrom wished to see the speed limit “a little higher” and reduce it later if needed. Supervisor Giomi also agreed that “it was five miles too slow.” Supervisor Bonkowski reminded the Board that two pedestrian crossings will be added on the South Carson Street Corridor; therefore, the speed limit would be reduced for drivers to react in time at crossings. Supervisor Bagwell noted that the item is not set in stone and could be revisited. Supervisor Barrette disagreed with Supervisor Giomi noting that “I think we’re in a city and we should actually slow down.” Mayor Crowell believed that complete streets provide people with the ability to easily get off the street to access a business. He also invited Ms. Lindstrom to return anytime so the Board can hear from her. There were no additional comments; therefore, Mayor Crowell entertained a motion.

(10:14:54) – Supervisor Bonkowski moved to award the contract as amended. Supervisor Giomi seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Giomi
AYES:	Supervisors Bonkowski, Giomi, Bagwell, Barrette, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(10:15:11) – Mayor Crowell recessed the meeting.

(10:31:11) – Mayor Crowell reconvened the Board of Supervisors meeting. A quorum was still present.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 7

12.B FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING CONTRACT NO. 1819-240, SOUTH CARSON COMPLETE STREETS PROJECT MATERIAL TESTING AND CONSTRUCTION INSPECTION SERVICES WITH CONSTRUCTION MATERIALS ENGINEERS, INC. (CME), FOR A TOTAL NOT TO EXCEED AMOUNT OF \$232,940 THROUGH JUNE 30, 2021.

(10:31:15) – Mayor Crowell introduced the item. Ms. Akers noted a typographical correction to Section 5.1 of the contract. Mr. Stucky presented the Staff report which is incorporated into the record and responded to clarifying questions. He also noted that the contract was for time and materials only, except for the Inspections line item, which may or may not be executed but was a placeholder, if needed to supplement City Staff. Mayor Crowell entertained public comments.

(10:34:27) – Mr. French inquired whether the soil used as backfill for the project was included in the material testing, and Mr. Stucky stated it did. He also clarified that all the materials would be specified in the construction documents. Mr. French also expressed concern over sinking or shifting of homes.

(10:37:28) – **Supervisor Bagwell moved to approve the contract as amended. Supervisor Barrette seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bagwell
SECONDER:	Supervisor Barrette
AYES:	Supervisors Bagwell, Barrette, Bonkowski, Giomi, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

12.C FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A DETERMINATION THAT A&K EARTH MOVERS INC., IS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO NRS CHAPTER 338 AND WHETHER TO AWARD CONTRACT NO. 19300092, AIRPORT ROAD RECONSTRUCTION AND UTILITY REPLACEMENT PROJECT, FOR A TOTAL NOT TO EXCEED AMOUNT OF \$2,196,700.

(10:37:45) – Mayor Crowell introduced the item. Ms. Akers explained that the item was budgeted. Mr. Stucky presented the Staff Report, incorporated into the record, and noted that this item was a good example of how infrastructure and roadway reconstruction have been combined for added savings. There were no public comments. Mayor Crowell entertained a motion.

(10:39:13) – **Supervisor Giomi moved to approve contract NO. 19300092 as presented. Supervisor Bagwell seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 8

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Giomi
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Giomi, Bagwell, Barrette, Bonkowski, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

13. PUBLIC WORKS

13.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A GRANT OF EASEMENT FROM CARSON CITY TO NV ENERGY FOR THE INSTALLATION OF ELECTRICAL FACILITIES TO SUPPORT THE ORMSBY BOOSTER PUMP STATION LOCATED ON APN 007-392-39.

(10:39:32) – Mayor Crowell introduced the item. Carson City Real Property Manager Cory Kleine presented the Staff Report and responded to clarifying questions by the Board. Mr. Kleine confirmed for Supervisor Bonkowski that “if we approve this [item] now that we don’t have to come back and correct it later because of any potential future issues on the booster pump.” Supervisor Giomi noted that he had spoken to Parks and Recreation Director Jennifer Budge and was informed that “she’s comfortable with the language, the way it’s written. Any future work that NV Energy does relative to this easement, there’s enough protection here that we won’t run into [an issue like one in the past].” Mayor Crowell entertained public comments and when none were forthcoming, a motion.

(10:44:17) – Supervisor Bagwell moved to approve the easement and authorize the City Engineer to sign the initial and revised grants of easement. Supervisor Giomi seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bagwell
SECONDER:	Supervisor Giomi
AYES:	Supervisors Bagwell, Giomi, Barrette, Bonkowski, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

13.B FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A WATER EXCHANGE AGREEMENT BETWEEN CARSON CITY AND ANDERSEN-COLARD RANCH ENTERPRISES, LLC CONCERNING KINGS CANYON CREEK, ASH CANYON CREEK, AND MUNICIPAL WATER USE WHEREIN THE PARTIES' WATER USE WILL BE OFFSET AND CARSON CITY WILL PAY 75 CENTS PER THOUSAND GALLONS IF IT USES MORE WATER AND

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 9

ANDERSEN-COLARD RANCH ENTERPRISES, LLC WILL PAY THEN EXISTING MUNICIPAL WATER RATES IF IT USES MORE WATER.

(10:44:31) – Mayor Crowell introduced the item. Public Works Director Darren Schulz reviewed the information incorporated into the Staff Report. He, along with Water Utility Manager Eddie Quaglieri, responded to clarifying questions by the Supervisors. Supervisor Bagwell noted for the record two typographical errors in sections 5.d and 5.e. Mayor Crowell entertained public comments.

(10:49:58) – In response to an inquiry by Mr. French, Mayor Crowell gave background on an analysis done by an outside consultant who had determined that “we have more than enough [water] to meet buildout.” Mr. Quaglieri explained the changes in the water throughout the season and stated that the City owned 65 percent of the Kings Canyon Creek water and the balance was owned mostly by the Andersens with other owners. No further public comment was available; therefore, Mayor Crowell entertained a motion.

(10:52:37) – **Supervisor Bagwell moved to approve the agreement as amended. Supervisor Barrette seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bagwell
SECONDER:	Supervisor Barrette
AYES:	Supervisors Bagwell, Barrette, Bonkowski, Giomi, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

13.C FOR DISCUSSION ONLY: DISCUSSION AND PRESENTATION REGARDING THE ONE TAHOE INITIATIVE BY THE TAHOE TRANSPORTATION DISTRICT.

(10:52:57) – Mayor Crowell introduced the item. Transportation Manager Lucia Maloney gave background on the ONE TAHOE initiative and introduced Derek Morse, Principal, Morse Associates LLC. Mr. Morse provided a slide presentation, incorporated into the record, on the ONE TAHOE Transportation and Funding Initiative, along with its challenges, and proposed solutions. He also responded to clarifying questions by the Board. Mayor Crowell entertained public comments; however, none were forthcoming. He also thanked Mr. Morse for the presentation.

14. SHERIFF

14.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A VEHICLE DONATION AGREEMENT BETWEEN THE CARSON CITY SHERIFF'S SEARCH AND RESCUE UNIT, A NOT-FOR-PROFIT ORGANIZATION, AND CARSON CITY FOR THE DONATION TO THE CITY OF THREE MOTOR VEHICLES AND ASSOCIATED PERSONAL

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 10

PROPERTY FOR THE PERFORMANCE OF SEARCH AND RESCUE FUNCTIONS, WITH A TOTAL APPROXIMATE VALUE OF \$180,000.

(11:40:09) – Mayor Crowell introduced the item. Carson City Sheriff Ken Furlong gave background and presented the information which is incorporated into Staff Report. He noted that the donated vehicles would replace the older ones currently in the fleet. Supervisor Bonkowski noted a discrepancy in the agreement regarding the vehicle ownership. Carson City Search and Rescue (CCSAR) commander David Spencer explained that the equipment redistribution clause was based on the organization’s bylaws. Mr. Yu clarified that there would be an added step to the agreement and that his office would coordinate it with the Sheriff’s Office. He also stated that “the crux of this provision is to make sure that Search and Rescue would be the responsible party for the cost associated with the reconveyance.” He also discussed the end-of-life process for the vehicles. Supervisor Bagwell acknowledged the bylaws clause which she believed was part of all non-profit bylaws stating that should they cease to exist; all their assets are transferred to another non-profit. She recommended removing the clause altogether. Supervisor Giomi thanked CCSAR for the donation; however, he believed the assets belonged to the City. Mayor Crowell entertained public comments; and when none were forthcoming, a motion although he believed “the contract needs some more work.”

(11:48:45) – Supervisor Bonkowski moved to approve the agreement and direct the District Attorney’s Office to come up with some clarifying language on Section 3, on page 2, to clarify that the assets are owned by the City and will not be re-conveyed by CCSAR. Supervisor Bagwell seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Bonkowski, Bagwell, Barrette, Giomi, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(11:49:28) – Mr. Spencer clarified that the funds were provided to CCSAR by a donor via a trust fund. Supervisor Giomi requested that Mr. Spencer thank the donor on behalf of the City and the Board for their “incredibly generous donation.” Supervisor Bagwell believed that CCSAR deserved the credit since the donor believed their organization was trusted to handle the assets, and thanked CCSAR for all they do.

15. RECESS AS THE BOARD OF SUPERVISORS

(11:50:33) – Mayor Crowell recessed the Board of Supervisors meeting.

LIQUOR AND ENTERTAINMENT BOARD

16. CALL TO ORDER & ROLL CALL - LIQUOR AND ENTERTAINMENT BOARD

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 11

(11:50:38) – Chairperson Crowell called the Liquor and Entertainment Board meeting to order at 11:50 a.m. and noted that all Board members (the Supervisors and Sheriff Furlong) were present.

17. PUBLIC COMMENT

(11:51:00) – Chairperson Crowell entertained public comments; however, none were forthcoming.

18. FOR POSSIBLE ACTION: APPROVAL OF MINUTES - FEBRUARY 1, 2018

(11:51:07) – Chairperson Crowell introduced the item. **Member Bonkowski moved to approve the minutes of the February 1, 2018 Liquor and Entertainment Board meetings. The motion was seconded by Member Bagwell. Motion carried 6-0-0.**

19. COMMUNITY DEVELOPMENT - BUSINESS LICENSE

19.A FOR DISCUSSION ONLY: PRESENTATION REGARDING THE LIQUOR HEARINGS OFFICER'S ANNUAL REPORT FOR 2019.

(11:51:25) – Chairperson Crowell introduced the item. Planning Manager/Liquor Hearings Officer Hope Sullivan presented the Staff Report, which is incorporated into the record. She noted that the Liquor Hearings Officer has been reviewing the liquor license applications and revocations for the past two years, and that “it’s going really well.” She also explained for Member Bonkowski that two of the three violations in the report were for first offenses and one was for a second offense. Chairperson Crowell believed it would be beneficial to send emails to the Board members to inform them of the activities in the community. Ms. Sullivan also clarified that they received many compliments on the efficiency of the hearing process and how accommodating Staff has been. There were no public comments.

20. PUBLIC COMMENT

(11:54:02) – Chairperson Crowell entertained final public comments; however, none were forthcoming.

21. FOR POSSIBLE ACTION: TO ADJOURN AS THE LIQUOR AND ENTERTAINMENT BOARD

(11:54:08) – Chairperson Crowell adjourned the Liquor and Entertainment Board meeting at 11:54 a.m.

22. RECONVENE AS THE BOARD OF SUPERVISORS

(11:54:10) – Mayor Crowell reconvened the Board of Supervisors meeting. A quorum was still present.

23. COMMUNITY DEVELOPMENT - PLANNING

23.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE HISTORIC RESOURCES COMMISSION ANNUAL REPORT FOR 2019.

CARSON CITY BOARD OF SUPERVISORS
Minutes of the February 6, 2020 Meeting
Page 12

(11:54:12) – Mayor Crowell introduced the item. Ms. Sullivan presented the Annual Report, which is incorporated into the record, and responded to clarifying questions. Supervisor Giomi inquired about the V&T Roundhouse items and suggested using some of them for the Fairview Drive roundabout artwork. Mayor Crowell thanked Ms. Sullivan and the Commission for a job well done and entertained a motion.

(11:56:55) – **Supervisor Bagwell moved to accept the Annual Report. Supervisor Barrette seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bagwell
SECONDER:	Supervisor Barrette
AYES:	Supervisors Bagwell, Barrette, Bonkowski, Giomi, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

23.B FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN APPEAL OF THE PLANNING COMMISSION’S DECISION TO AMEND A SPECIAL USE PERMIT FOR AN ASPHALT PLANT AND AGGREGATE CRUSHING FACILITY KNOWN AS TAHOE WESTERN ASPHALT ZONED GENERAL INDUSTRIAL, LOCATED AT 8013 HIGHWAY 50 EAST, APN 008-611-35.

(8:51:22) – Mayor Crowell introduced the item. Ms. Sullivan gave background on the item and presented the Staff Report, incorporated into the record, with the recommendation to refer the matter back to the Planning Commission based on new information that had become available since the Planning Commission’s action on November 19, 2019. She also clarified that “this by no means diminishes the comments that we’ve received, or the action of the Planning Commission,” and acknowledged the concerns by the residents of Mound House, assuring them that the item will be discussed in the February 26, 2020 Planning Commission meeting. Mayor Crowell entertained public comments.

(8:53:54) – Jeremy Clarke, Esq. introduced himself as a representative of Tahoe Western Asphalt (TWA) and noted his client’s agreement with Ms. Sullivan’s recommendation. He also explained that TWA is “very aware of the complaints and is taking steps to mitigate the odors, and wants to really live in harmony with the community members, with its neighbors.” Mr. Clarke believed that they needed time to implement the necessary remedies. Mayor Crowell entertained a motion after which public comments would be heard.

(8:55:12) – **Supervisor Bonkowski moved to refer this matter back to the Planning Commission based on new information that has become available since the Planning Commission’s action on November 19, 2019. Supervisor Bagwell seconded the motion for discussion.** Mayor Crowell entertained public comments.

(5:55:47) – Bob Lucas introduced himself as “one of the Mound House residents” and believed that Tahoe Western Asphalt had not done anything yet. He gave the example of having ashes rain on them during a barbeque

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 13

and that “we’re tired of it...he doesn’t care.” Mr. Lucas also suggested revoking TWA’s Special Use Permit (SUP).

(8:59:44) – Cindy Jones was informed by Ms. Sullivan that TWA may operate while the appeal is pending, and added that she had visited several plants to get to the “the right answer” while TWA was having conversations with the Nevada Department of Environmental Protection (NDEP).

(9:02:24) – Matthew Wilkie introduced himself as a new resident to the area and noted that he could not “delay barbeques in my backyard, I can’t delay letting my dog out every morning...I can’t delay living my life.” Mr. Wilkie believed that “[per] the vibe in our community it seems like the [Planning] Commission is against the community...Mound House is an invisible line. We’re all part of the same community.” He called the delays disheartening. Mayor Crowell explained to another member of the audience that he couldn’t speculate the outcome of the Planning Commission meeting; however, he stated “if it comes back here, we’ll hear it,” noting “we’re one community here”.

(9:04:54) – Melissa Fraker stated “I’ve helped build that [Mound House] community...I was a construction worker for 20-some years.” Ms. Fraker gave background on the plant and stated that TWA had not complied to the Special Use Permit conditions, including burning on Sundays and at nights. She also noted that her grandchildren have to cover their faces when going to the [school] bus stop. Mayor Crowell cautioned Mr. Clarke to have his client follow through with what was promised and that “this is something that’s going to get fixed.”

(9:07:40) – Mr. Clarke explained that the “new equipment [will] funnel the odors and the fumes back into the equipment and burn them up so they’re not being spewed out into the community, but what we can’t do is implement that equipment before the NDEP approves it.” Ms. Sullivan explained that this discussion will take place in the Planning Commission and the Commissioners have taken this issue “very seriously” with the first step of the SUP revocation process, including revisions to the operating hours.

(9:09:34) – Supervisor Bonkowski inquired about the proposed new equipment. Ms. Sullivan explained that through her visit to the Fernley plant, she had been aware that the Regenerative Thermal Oxidizer (RTO) was not appropriate for this type of operation and that a carbon filter would most likely be more appropriate. In addition, she had been made aware that enclosing the “asphalt drops” into the trucks would benefit in mitigating the odor. Ms. Sullivan believed that in speaking with “outside experts” she was gathering information to provide to the Planning Commission for a better-informed decision. She noted that she was having a dialogue with NDEP as well.

(9:12:30) – Supervisor Giomi inquired about the NDEP timeline and Ms. Sullivan clarified that the business is currently in compliance with NDEP; however; they have been responsive to Staff. She also noted that the compliance issues are SUP-related. Supervisor Barrette was concerned that TWA had not followed the conditions of the SUP and Ms. Sullivan clarified that Staff “is blind to the boundary” and have addressed the concerns of operating “consistent with the findings of fact” for the SUP. She also noted that the Code Enforcement officers had been to the site when called and that the Planning Commission had already modified the hours of operation. Ms. Sullivan stated that the Planning Commission had already started the permit revocation process.

CARSON CITY BOARD OF SUPERVISORS
Minutes of the February 6, 2020 Meeting
Page 14

(9:18:06) – Ms. Lucas explained that there had been a fire which had barely avoided a major explosion. She also was concerned that TWA did not care about the residents. Mr. Wilkie indicated that TWA was still polluting because “he’s allowed to still operate while this is all being figured out.” He was also concerned that the City was following “1970s laws”.

(9:22:12) – Ms. Fraker inquired about the hours of operation and Ms. Sullivan noted that she would find that information and relay it to her. Mayor Crowell entertained additional comments and when none were forthcoming, he called for the vote. Supervisor Barrette requested that Mr. Clarke convey to his client “that the law be followed.”

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Bonkowski, Bagwell, Barrette, Giomi, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

23.C FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A HISTORICAL TAX DEFERMENT ON PROPERTY LOCATED WITHIN THE HISTORIC DISTRICT ON PROPERTY ZONED SINGLE FAMILY 6000, LOCATED AT 602 WEST SPEAR, APN 003-243-04.

(11:57:15) – Mayor Crowell introduced the item. Ms. Sullivan presented the Staff Report, incorporated into the record, and recommended approving the tax deferment for the primary building and the land only, but not the garage. There were no public comments; therefore, Mayor Crowell entertained a motion.

(11:58:33) – Supervisor Giomi moved to approve the request for the historical tax deferment on the primary building and land associated with APN 003-243-04. Supervisor Barrette seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Giomi
SECONDER:	Supervisor Barrette
AYES:	Supervisors Giomi, Barrette, Bagwell, Bonkowski, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

23.D FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A HISTORICAL TAX DEFERMENT ON PROPERTY LOCATED WITHIN THE

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 15

HISTORIC DISTRICT ON PROPERTY ZONED RESIDENTIAL OFFICE, LOCATED AT 311 WEST THIRD STREET, APN 003-124-01.

(11:58:52) – Mayor Crowell introduced the item. Ms. Sullivan presented the Staff Report, incorporated into the record, and recommended the approval of the tax deferral for the primary building and land. There were no public comments; therefore, Mayor Crowell entertained a motion.

(11:59:29) – Supervisor Bonkowski moved to approve the request for the historic tax deferral for the primary building and land at APN 003-124-01. Supervisor Bagwell seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Bonkowski, Bagwell, Giomi, Barrette, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

23.E FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A HISTORICAL TAX DEFERRAL ON PROPERTY LOCATED WITHIN THE HISTORIC DISTRICT ON PROPERTY ZONED DOWNTOWN MIXED USE, LOCATED AT 112 NORTH CURRY STREET, APN 003-215-02.

(11:59:50) – Mayor Crowell introduced the item. Ms. Sullivan presented the Staff Report, incorporated into the record, and recommended the approval of the tax deferral for the entire property excluding the garage. There were no public comments; therefore, Mayor Crowell entertained a motion. Supervisor Giomi gave anecdotal information regarding the property and the neighboring fire station. Supervisor Bonkowski inquired about the encroachments on all four property lines and Ms. Sullivan offered to flag the item when communicating the Board’s decision to the Carson City Assessor or delay action while she speaks to the Assessor. Supervisor Bonkowski wished to wait for the Assessor’s response. Community Development Director Lee Plemel clarified that “you can’t rely on our GIS. It’s not geo-matched to match buildings and aerials precisely to property lines.” Supervisor Bonkowski wished to be certain of the encroachments. Supervisor Giomi recommended tabling the item for discussion after lunch, and Mayor Crowell was in agreement.

(2:34:14) – Ms. Sullivan updated the Board on her meeting with the Assessor’s Office to review the records. She explained that “although the building may straddle a property line...the subject property is paying the entire cost for the entire building.” Mayor Crowell entertained public comments; however, none were forthcoming. He then entertained a motion.

(2:35:05) – Supervisor Giomi moved to approve the request for a Historical Tax Deferral on the entire property excluding the modern garage for APN 003-215-02. Supervisor Barrette seconded the motion. Mayor Crowell called for a vote.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 16

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Giomi
SECONDER:	Supervisor Barrette
AYES:	Supervisors Giomi, Barrette, Bagwell, Bonkowski, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

23.F FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED RESOLUTION PROVIDING FOR THE TRANSFER OF CARSON CITY'S 2020 PRIVATE ACTIVITY BOND VOLUME CAP, ESTIMATED TO BE APPROXIMATELY \$3,000,000, TO THE DIRECTOR OF THE NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY FOR IMPROVEMENTS TO THE PARKWAY PLAZA APARTMENTS LOCATED AT 20 WEST COLLEGE PARKWAY, AND ACKNOWLEDGEMENT OF AN APPLICATION FOR THE USE OF "HOME" FUNDS AS PART OF THE FINANCING FOR THE PROJECT AND THAT THE HOME FUNDS PARTICIPATION WILL TRIGGER A PROPERTY TAX EXEMPTION.

(12:03:18) – Mayor Crowell introduced the item. Mr. Plemel presented the Staff Report and responded to clarifying questions. He also informed Mayor Crowell that they had not seen any applications for this year's Bond Volume Cap; however, the request was to allocate all of it.

(12:06:25) – Eric Novak, Founder of Praxis Consulting Group, LLC, introduced himself and explained that the total bonds used on the project were for \$28.8 million. He also believed that the Housing Division was looking for the endorsement of the local governments by allocating a portion of their Volume Cap. Discussion ensued regarding jurisdictions and Mr. Novak wished to ensure the Governor that the project was being endorsed by the local government. Supervisor Bonkowski was informed that there was no current tax exemption on the property. Discussion ensued regarding compliance and Mr. Plemel stated that the State kept track of the exemptions. Mayor Crowell entertained a motion either to write a letter of support or to adopt the resolution.

(12:18:02) – Supervisor Giomi moved to adopt Resolution No. 2020-1. Supervisor Bagwell seconded the motion. Mayor Crowell entertained public comments and/or discussion on the motion.

(12:18:30) – Supervisor Bagwell expressed concern over the recently-raised Fair Market Rents and not accommodating the \$100 vouchers for utilities. Supervisor Bonkowski explained that he would support the resolution; however, there had been some issues in the past. He also indicated that he understood the need of affordable housing; however, he had reservations regarding supporting the project as it was a significant "hit" to the property tax revenue, even though he understood that the project was an investment for the City. There were no additional comments. Mayor Crowell called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Bonkowski, Bagwell, Giomi, Barrette, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 17

24. BOARD OF SUPERVISORS

NON-ACTION ITEMS

(2:52:52) – Ms. Paulson stated that the City had been approached by the Tahoe Regional Planning Agency (TRPA) to consider issuing conduit debt (between \$8,000,000 and \$9,000,000) to refund bonds. She noted that per the TRPA, the action would not affect the City's bond rating; however, it required Staff time and the TRPA had offered to reimburse incurred costs. Mayor Crowell recommended speaking to Ms. Paulson after the meeting, should the Supervisors have any questions.

FUTURE AGENDA ITEMS

N/A

STATUS REVIEW OF PROJECTS

N/A

INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS

N/A

CORRESPONDENCE TO THE BOARD OF SUPERVISORS

N/A

STATUS REPORTS AND COMMENTS FROM THE MEMBERS OF THE BOARD

N/A

STAFF COMMENTS AND STATUS REPORT

N/A

CLOSED NON-MEETING TO CONFER WITH COUNSEL

(12:23:05) – Mayor Crowell announced a closed session to confer the District Attorney's Office.

-- LUNCH BREAK - RETURN 1:30 P.M. --

(1:31:35) – Mayor Crowell reconvened the meeting at 1:31p.m.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 18

25. FINANCE

25.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN APPLICATION TO REMOVE \$481,747.22 IN UNCOLLECTIBLE ACCOUNTS RECEIVABLE FROM THE RECORDS OF THE AMBULANCE FUND.

(1:31:45) – Mayor Crowell introduced the item. Chief Financial Officer Sheri Russell presented the Staff Report with an attachment containing the list of uncollectible accounts receivable from the ambulance fund and recommended their removal from the City’s records, per the Nevada Revised Statute (NRS). Supervisor Bonkowski pointed out that since engaging Wittman Enterprises for emergency medical billing, the City’s non-collectible debt has decreased. Supervisor Giomi was also in agreement. Mayor Crowell entertained public comments and when none were forthcoming, a motion.

(1:34:50) – Supervisor Bonkowski moved to approve the application. Supervisor Barrette seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Barrette
AYES:	Supervisors Bonkowski, Barrette, Bagwell, Giomi, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

25.B FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE CARSON CITY COST ALLOCATION PLAN FOR THE FISCAL YEAR ENDED JUNE 30, 2019.

(1:34:53) – Mayor Crowell introduced the item. Ms. Russell presented the agenda materials, incorporated, into the record and responded to clarifying questions. Mayor Crowell entertained public comments and when none were forthcoming, a motion.

(1:42:30) – Supervisor Bagwell moved to accept the Cost Allocation Plan for the Fiscal Year that ended on June 30, 2019, and for use in preparing the Fiscal Year 2021 Carson City Budget. Supervisor Giomi seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bagwell
SECONDER:	Supervisor Giomi
AYES:	Supervisors Bagwell, Giomi, Bonkowski, Barrette, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 19

25.C FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING ASSUMPTIONS FOR STAFF TO USE IN PREPARATION OF CARSON CITY'S BUDGET FOR FISCAL YEAR 2021.

(1:42:53) – Mayor Crowell introduced the item. Ms. Russell gave background on the process and noted the projections she was about to present were “very preliminary”. She presented the Carson City FY 21 Budget Projections, incorporated into the record, reviewed the budgeting timeline on the attached calendar, and recommended that the property taxes remain the same. Ms. Russell also responded to clarifying questions.

(1:55:08) – Supervisor Bonkowski proposed having “a discussion about transferring two cents of the property tax per year, for five years, over to extraordinary maintenance,” calling it “one step towards coming up with permanent funding for the asset maintenance program.” Supervisor Bagwell noted that the Parks and Recreation Commission was evaluating the existing fee structure and was considering the allocation of 10 percent of the fees “to the asset management [budget] line.” Discussion ensued regarding restricting funds for maintenance and operational expenses. Supervisor Barrette wished to consider earmarking funds for road maintenance as well. Supervisor Bagwell was in favor of “an actual big picture” relating to roads and Mayor Crowell recommended designing a program that included developer involvement. Supervisor Giomi noted that the transportation funding gap agendized for the upcoming Board retreat should include “who maintains ownership” of roads. He was also in favor of funding the Asset Management Program in general. Ms. Russell confirmed that the five-cent property tax would be spent on long-term capital items. She also indicated that earmarks would still be included in the General Fund because they are not outside revenue sources. Further discussion ensued regarding roads and Supervisor Bonkowski reviewed the “incremental steps to try to help fund roads;” however, he believed “it’s an insurmountable issue in our current reality.” There were no public comments. Mayor Crowell entertained a motion.

(2:30:36) – Supervisor Bonkowski moved to direct Staff to use \$3.57 as the property tax rate in preparing the FY 2021 Carson City Budget as well as incorporating the items from today’s discussion into the planning. The motion was seconded by Supervisor Bagwell. Supervisor Giomi requested further clarification.

(2:31:07) – Supervisor Bonkowski restated his motion to direct Staff to use \$3.57 per \$100 as the property tax rate in preparing the FY 2021 Carson City Budget as well as incorporating a transfer of two cents net of the property tax into the extraordinary maintenance fund each year, annually, for the next five years. Supervisor Bagwell agreed to the amendment as the seconder. Discussion ensued regarding the direction provided to Ms. Russell to build a tentative budget. Mayor Crowell called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bonkowski
SECONDER:	Supervisor Bagwell
AYES:	Supervisors Bonkowski, Bagwell, Giomi, Barrette, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 20

(2:34:07) Mayor Crowell announced that the Board would now revisit item 23.E.

25.D FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A RESOLUTION TO AUGMENT AND AMEND THE CARSON CITY FY 2019-20 BUDGET IN THE AMOUNT OF \$61,927,090.

(2:35:24) – Mayor Crowell introduced the item. Ms. Russell presented the agenda materials which are incorporated into the record and clarified that the augmentation was a “roll forward of unspent funds in FY 2019” which were being moved into the FY 2020 budget, adding that several of the funds were already spent in the current year. She reviewed the funds, incorporated into the record, and responded to clarifying questions.

(2:43:16) – Mayor Crowell recessed the meeting.

(2:49:32) – Mayor Crowell reconvened the meeting. All Supervisors were still present.

(2:51:24) – There were no public comments. Mayor Crowell entertained a motion.

(2:51:33) – Supervisor Bagwell moved to adopt Resolution No. 2020-R-2. The motion was seconded by Supervisor Barrette. There were no public comments. Mayor Crowell called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Supervisor Bagwell
SECONDER:	Supervisor Barrette
AYES:	Supervisors Bonkowski, Bagwell, Giomi, Barrette, and Mayor Crowell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

26. PUBLIC COMMENT

(2:54:42) – Mayor Crowell entertained final public comments; however, none were forthcoming

27. FOR POSSIBLE ACTION: TO ADJOURN AS THE BOARD OF SUPERVISORS

(2:54:53) – Mayor Crowell adjourned the Board of Supervisors meeting at 2:54 p.m.

REDEVELOPMENT AUTHORITY

28. CALL TO ORDER & ROLL CALL - REDEVELOPMENT AUTHORITY

(2:55:01) – Chairperson Bagwell called the Redevelopment Authority meeting to order at 2:55 p.m. and noted for the record that all members were present.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

Page 21

29. PUBLIC COMMENT

(2:55:11) – There were no public comments.

30. FOR POSSIBLE ACTION: APPROVAL OF MINUTES - JANUARY 2, 2020

(2:55:21) – Member Bonkowski moved to approve the minutes of the January 2, 2020 Redevelopment Authority meeting. Member Barrette seconded the motion which carried unanimously.

31. FINANCE

31.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A RESOLUTION TO AUGMENT AND AMEND THE CARSON CITY REDEVELOPMENT AUTHORITY FY 2019-20 BUDGET IN THE AMOUNT OF \$751,444.

(2:55:38) – Chairperson Bagwell introduced the item and Ms. Russell presented the Staff Report and the supporting documentation, which are incorporated into the record. She also responded to clarifying questions by the Authority members. There were no public comments. Chairperson Bagwell entertained a motion.

(2:57:16) – Member Crowell moved to adopt Resolution No. 2020-RA-R-1. The motion was seconded by Vice Chair Giomi. There were no public comments. Chairperson Bagwell called for a vote.

RESULT:	APPROVED (5-0-0)
MOVER:	Member Crowell
SECONDER:	Member Giomi
AYES:	Members Crowell, Barrette, Bonkowski, Vice Chair Giomi, and Chair Bagwell
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

32. PUBLIC COMMENT

(2:57:43) – Chairperson Bagwell entertained public comments; however, none were forthcoming.

33. FOR POSSIBLE ACTION: TO ADJOURN AS THE REDEVELOPMENT AUTHORITY

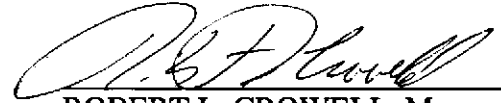
(2:57:48) – Chairperson Bagwell adjourned the redevelopment Authority meeting at 2:57 p.m.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the February 6, 2020 Meeting

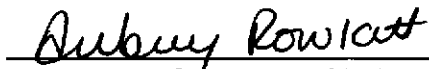
Page 22

The Minutes of the February 6, 2020 Carson City Board of Supervisors meeting are so approved this 5th day of March, 2020.



ROBERT L. CROWELL, Mayor

ATTEST:



AUBREY ROWLATT, Clerk - Recorder

MINUTES
Regular Meeting
Carson City Planning Commission
Tuesday November 19, 2019 ● 3:30 PM
Community Center Sierra Room
851 East William Street, Carson City, Nevada

Commission Members

Chair – Mark Sattler	Vice Chair – Charles Borders, Jr.
Commissioner – Alex Dawers	Commissioner – Paul Esswein
Commissioner – Teri Preston	Commissioner – Hope Tingle
Commissioner – Jay Wiggins	

Staff

Lee Plemel, Community Development Director
 Hope Sullivan, Planning Manager
 Ben Johnson, Deputy District Attorney
 Steven Pottéy, Engineering Project Manager
 Heather Ferris, Associate Planner
 Tamar Warren, Senior Deputy Clerk

NOTE: A recording of these proceedings, the board’s agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record. These materials are on file in the Clerk-Recorder’s Office, and are available for review during regular business hours.

An audio recording of this meeting is available on www.Carson.org/minutes.

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

(3:29:05) – Chairperson Sattler called the meeting to order at 3:29 p.m. Roll was called. A quorum was present. Commissioner Borders led the Pledge of Allegiance.

Attendee Name	Status	Arrived
Chairperson Mark Sattler	Present	
Vice Chair Charles Borders, Jr.	Present	
Commissioner Alex Dawers	Present	
Commissioner Paul Esswein	Present	
Commissioner Teri Preston	Present	
Commissioner Hope Tingle	Present	
Commissioner Jay Wiggins	Present	

B. PUBLIC COMMENTS

(3:30:00) – Chairperson Sattler entertained public comments; however, none were forthcoming.

C. POSSIBLE ACTION ON APPROVAL OF MINUTES – August 22, 2019 and September 26, 2019, workshop minutes, and the September 25, 2019 regular meeting minutes.

(3:30:20) – Chairperson Sattler entertained comments or motions.

(3:30:42) – **MOTION:** Vice Chair Borders moved to accept the minutes of the September 25, 2019 Planning Commission [regular meeting] minutes. The motion was seconded by Commissioner Esswein. Motion carried 7-0-0.

(3:31:08) – **MOTION:** Vice Chair Borders moved to approve the minutes of the August 22, 2019 Planning Commission Workshop minutes. The motion was seconded by Commissioner Tingle. Motion carried 6-0-1 with Commissioner Esswein abstaining as he was not present at the workshop.

(3:31:36) – Commissioner Dawers noted that he was absent from the September 26, 2019 Planning Commission Workshop and wished to have the correction reflected in the minutes.

(3:31:58) – **MOTION:** Commissioner Tingle moved to approve the minutes of the September 26, 2019 Planning Commission Workshop minutes as corrected. The motion was seconded by Commissioner Esswein. Motion carried 6-0-1 with Commissioner Dawers abstaining as he was not present at the workshop.

D. MODIFICATION OF AGENDA

(3:32:22) – Ms. Sullivan indicated that there were no proposed changes to the agenda; however, she noted that an applicant was not yet present which might result in taking an agenda item out of order.

E. PUBLIC HEARING MATTERS

E.1 SUP-19-169 – FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW A BEAUTY SHOP ON PROPERTY ZONED GENERAL OFFICE (GO), LOCATED AT 504 EAST MUSSER STREET, APN 004-181-03.

(3:32:58) – Chairperson Sattler introduced the item. Ms. Ferris presented the agenda materials. There were no questions from the Commissioners.

(3:35:27) – Applicant Caresse Williams noted her agreement with the conditions of approval. There were no questions to the applicant. Chairperson Sattler entertained public comments.

(3:36:30) – Jennifer Hilderbrand introduced herself as the property manager and noted that she was in favor of the Special Use Permit. Ms. Hilderbrand; however, was concerned with the cost of upgrading the ADA ramp due to a high bid she had received, and wished to know if the City could help with the cost.

(3:37:38) – Mr. Pottéy noted that he would defer the item to the City Engineer and responded to clarifying questions. Ms. Ferris believed that Condition #5 could read as follows:

“Prior to commencing use, the applicant shall upgrade the pedestrian curb ramp at the corner of East Musser Street and North Valley Street to meet current ADA standards to the satisfaction of the City Engineer.”

(3:38:18) – Discussion ensued regarding the current ADA ramp and whether the City had plans to upgrade it. Ms. Sullivan believed that the revised Condition #5 by Ms. Ferris was “the best flexibility Staff can offer now”. There were no additional comments. Chairperson Sattler entertained a motion.

(3:44:38) – MOTION: I move to approve Special Use Permit SUP-19-169 based on the findings and subject to the conditions of approval contained in the staff report including the amendment to Condition #5 [per the discussion above].

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Sattler
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.2 SUP-19-083-1 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO A SPECIAL USE PERMIT FOR OUTDOOR STORAGE TO ALLOW FOR PERSONAL STORAGE WITHIN AN ENCLOSED BUILDING ON PROPERTY ZONED GENERAL COMMERCIAL AND PUBLIC REGIONAL, LOCATED ON THE WEST SIDE OF AIRPORT ROAD, SOUTH OF BUTTI WAY, APN 010-041-76.

(3:45:18) – Chairperson Sattler introduced the item. Ms. Sullivan gave background, and presented the Staff Report with accompanying documents. She also highlighted the modified conditions of approval. There were no Commissioner or public comments.

(3:48:25) – Applicant representative Mike Vicks of Monte Vista Consulting acknowledged reading and being in agreement with the conditions of approval outlined in the Staff Report. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(3:49:05) – MOTION: I move to approve SUP-19-083-1 to amend SUP-19-083 based on findings and subject to conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Preston
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.3 SUP-18-111-1 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO A SPECIAL USE PERMIT FOR A GAMING (UNLIMITED) USE TO ALLOW AN INCREASED BUILDING SIZE, A MODIFIED FAÇADE,

AND A MODIFIED SITE PLAN ON 0.98± ACRES ZONED RETAIL COMMERCIAL, LOCATED AT 2811 S. CARSON STREET, APN # 009-112-25.

(3:49:43) – Chairperson Sattler introduced the item. Ms. Sullivan gave background and presented the agenda materials which are incorporated into the record and recommended approval, noting that they were made the seven required findings for the modifications. She also clarified for Commissioner Esswein that the footprint would change; however, the site plan would stay the same. She also acknowledged the presence of applicant representative Mike Railey of the Christy Corporation.

(3:52:54) – Mr. Railey introduced himself and noted that both he and the applicant were in agreement with the conditions of approval stated in the Staff Report. There were no Commissioner or public comments; therefore, Chairperson Sattler entertained a motion.

(3:53:30) – MOTION: I move to approve SUP-18-111-1, a request for an amendment to SUP-18-111, based on the findings and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Esswein
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.4 SUP-19-162 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW FOR A 6-FOOT TALL WALL WITHIN 5 FEET OF THE PROPERTY LINE ON THE STREET SIDE-YARD OF A PROPERTY, ZONED MULTI-FAMILY APARTMENT (MFA), LOCATED AT 150 EAST ROLAND STREET, 009-197-02.

(3:54:05) – Chairperson Sattler introduced the item. Ms. Sullivan gave background, presented the Staff Report with the accompanying documentation, and responded to clarifying questions. She also referenced the late material presented into the record, noting that the applicant had worked with Development Engineering and had found that the right-of-way on Roland Street was wider than necessary; therefore, a five-foot strip of street may be abandoned and landscaping may be a way of softening the six-foot fence. Ms. Sullivan recommended modifications to approval items eight and nine per her memorandum, and suggested landscaping to obscure the fence or wall, in addition to the suggested abandonment. Vic Chair Borders received confirmation that “the landscape almost negates what the fence is made of”.

(4:00:00) – Applicant Representative Rachael Kryder of Resource Concepts, Inc. noted her acceptance of the Conditions of Approval outlined in the Staff Report. Commissioner Wiggins inquired about the transition of the fencing from the existing development to the current development, and Ms. Kryder noted that they had not addressed it yet; however, she believed that “the landscaping should soften [the transition] as well.” Commissioner Dawers was informed that the wall will be the back wall of the yards

for the ten units that back into Roland Street. Chairperson Sattler referenced a letter inquiring about the fence, and incorporated into the record, and entertained public comments; however, none were forthcoming. Ms. Sullivan informed Vice Chair Borders that this Commission would improve the previously-discussed abandonment, should it be considered.

(4:03:42) – MOTION: I move to approve SUP-19-162 based on the ability to make the required findings and subject to the conditions of approval.

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Tingle
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.5 SUP-19-164 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A RESIDENTIAL USE IN A NON-RESIDENTIAL ZONING DISTRICT TO CONSTRUCT 126 APARTMENT UNITS ON A 6.13-ACRE PARCEL ZONED NEIGHBORHOOD BUSINESS (NB), LOCATED ON THE SOUTH SIDE OF LITTLE LANE, WEST OF JANAS WAY, APN 004-015-06.

(4:04:14) – Chairperson Sattler introduced the item. Ms. Sullivan entertained disclosures. Commissioner Dawers noted that his company, Superior Door and Window, was a bidder on part of the project for one of the contractors on the item; therefore, he would abstain from voting due to a disqualifying conflict. Commissioner Preston disclosed that as a commercial real estate agent for Coldwell Banker Select, and has occasionally co-listed property with an agent of the applicant; however, she noted that they do not share “offices or staff” and are independent contractors. Commissioner Preston also noted that she did not have a co-listing on the project and would not receive any compensation; however, she was “making this disclosure in the best interest and transparency” and that she would be voting on the item as she did not have a disqualifying conflict.

(4:06:32) – Ms. Sullivan presented the Staff Report and the accompanying documents and recommended approval since Staff was able to make the seven required findings in the affirmative. She also noted that applicant representative and project architect Terry Novak was present and ready to answer questions. In response to a question by Commissioner Tingle, Mr. Pott y explained that the FEMA submission would occur after the City’s Storm Water Engineer reviews the applicant’s flood zone analysis and proposed changes. Commissioner Tingle expressed concern over the traffic on Little Lane and Saliman Road, and Mr. Pott y believed that the impact study will be updated should the levels of service decline. Ms. Sullivan noted that the School District had requested utilizing their previously-submitted comments. Chairperson Sattler invited the applicant to come forward.

(4:13:32) – Architect Terry Novak introduced himself and noted that he was in agreement with the Conditions of Approval Outlined by Staff. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(4:14:24) – MOTION: I move to recommend approval of SUP-19-164 based on the ability to make the required findings, and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (6-0-1)
MOVER:	Borders
SECONDER:	Wiggins
AYES:	Sattler, Borders, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	Dawers
ABSENT:	None

E.6 AB-19-168 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR AN ABANDONMENT OF A PUBLIC RIGHT-OF-WAY, SPECIFICALLY A PORTION OF LAMOTTE DRIVE, BEGINNING AT THE REAR PROPERTY LINES OF 3493 ARROWHEAD DRIVE (APN 005-052-03) AND 3505 ARROWHEAD DRIVE (APN 005-053-03), AND EXTENDING TO APPROXIMATELY THE EASTERN PROPERTY LINE OF 3321 LA MOTTE DRIVE (APN 005-053-12).

(4:15:21) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report and noted Staff’s support of the abandonment, “but we think we need some street improvements before we can actually abandon the road to accommodate these turnarounds.” She also outlined the abandonment process which would require the Planning Commission’s recommendation to the Board of Supervisors based on the seven required findings. Ms. Sullivan acknowledged the presence of the applicant’s representative, Derek Wilson of the Rubicon Group and explained to vice Chair Borders that the City will most likely rename one of the streets. Ms. Sullivan and Mr. Pottéy also responded to clarifying questions from the Commissioners.

(4:14:48) – Mr. Wilson stated that they are in agreement with the conditions of approval. He also clarified for the Commission that “everything proposed for abandonment is unbuilt now” and that items noted in Condition five are also being addressed by the applicant. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(4:19:51) – MOTION: I move to recommend that the Board of Supervisors approve AB-19-168, based on seven findings and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Sattler
SECONDER:	Borders
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.7 SUP-19-177 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A RESIDENTIAL USE IN A NON-RESIDENTIAL ZONING DISTRICT TO CONSTRUCT 12 APARTMENT UNITS ON A 0.63-ACRE PARCEL ZONED NEIGHBORHOOD BUSINESS-PLANNED UNIT DEVELOPMENT (NB-P), LOCATED ON THE SOUTHEAST CORNER OF STAFFORD WAY AND SILVER SAGE DRIVE, APN 009-563-07.

(4:20:32) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report, incorporated into the record, and responded to clarifying questions. She also recommended approval of the Special Use Permit based on having met the seven required findings. Applicant Jeff Pisciotta, and applicant representatives Christopher Moltz and Mark Johnson of Stanka Consulting LTD introduced themselves and noted their agreement to the conditions of approval by Staff. Vice Chair Borders received clarification that the apartments touching Heaton Way will have private backyards and will have fences of undetermined height. Mr. Pisciotta explained that he had contacted the homeowners association (HOA) of the Heaton Way properties but had not heard back from them regarding maintaining that portion of their property. Commissioner Dawers was informed that the trash will be collected in cans and not in large receptacles. Mr. Moltz stated that there would be private garage parking for each apartment (12 total), 12 assigned uncovered parking spaces, and three unassigned guest parking spaces. Chairperson Sattler entertained public comments.

(4:40:45) – Carl Bolton introduced himself as “the president of the homeowners association that’s adjacent to this development, on the south and the east portion.” Mr. Bolton objected to the two-story units being planned, and believed “there’s never enough parking spaces in an apartment complex”, adding that only six or seven cars may be allowed on Stafford Way.

(4:43:31) – William Reinbolt introduced himself as a Stafford Way resident, and objected to the two-story complex and the anticipated traffic.

(4:45:06) – Kathleen St. Clair introduced herself as a Heaton Way resident and spoke in opposition to the proposed development and believed people will start parking on her street which she noted was a private street.

(4:46:12) – Katherine Borde introduced herself as a Heaton Way resident and noted that she had bought two units “because of the beautiful views” and did not wish to see her views obstructed with the two-story apartments, and she did not want “a high-transient, packed-in group across from where I live.” Ms. Borde also stated that many residents on Heaton Way had not received notices regarding the development

(4:48:57) – Sandra Stephen introduced herself as a 13-year resident living on Heaton Way and expressed opposition to the two-story buildings as well.

(4:50:28) – Don Fox introduced himself as another Heaton Way resident and explained that he was speaking on behalf of his wife, who owned the complex they were living in. Mr. Fox was also concerned about losing their view and the extra cars that would drive through the neighborhood or cause parking problems.

(4:56:06) – Gene Carhart introduced himself and spoke against having apartment windows looking down on Heaton Way.

(4:56:59) – Chairperson Sattler entertained additional comments; however, none were forthcoming. He also addressed the issue of notifications, stating that they were done per City requirements. The Chair also expressed concern that only three guest parking spaces would be available. Ms. Sullivan clarified that windows would face Heaton Way. Commissioner Esswein was informed that the maximum building height in a commercial district was 26 feet, the same height proposed by the developer, and offered to explain the allowable uses in a commercial zone. Chairperson Sattler explained that “although views are nice to have, there’s no guarantee on adjacent property that your view is not going to be blocked.” Commissioner Esswein recommended towing “a car that isn’t supposed to be there” adding that he had noticed “any number of duplexes and any number of two-story units in this immediate neighborhood...this is a permitted use with a Special Use Permit”.

(5:03:59) – Commissioner Tingle believed that this development would not address the issue of affordable housing and Chair Sattler noted “that’s really not in our control to tell a developer what he has to put in affordability-wise.” Commissioner Preston called the development an “infield project”, which she believed would be attractive for the neighborhood. Commissioner Dawers believed the open space is minimal; however, after driving in the neighborhood, he believed the project “meshes perfectly with the surrounding areas” and that it was “a pretty good buffer between single-family homes and light commercial [zoning]”. Chairperson Sattler entertained further discussion, and when none were forthcoming, a motion.

(5:08:13) – MOTION: I move to recommend approval of SUP-19-177 based on the ability to make the required findings, and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Dawers
SECONDER:	Preston
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(5:08:44) – Mr. Plemel noted that this action was the final decision on the Special Use Permit application unless appealed which could be filed within 10 days from this date, by contacting the Planning Division.

(5:09:34) – Chairperson Sattler recessed the meeting.

(5:18:54) – Chairperson Sattler reconvened the meeting and noted that the Commission would address agenda item E-9 prior to item E-8. A quorum was still present.

-- THE FOLLOWING ITEM WILL BE HEARD NO EARLIER THAN 5:30 PM --

E.8 SUP-10-115-2 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE ONE YEAR REVIEW OF THE APPROVAL OF A MODIFICATION TO A SPECIAL USE PERMIT FOR AN ASPHALT PLANT ON PROPERTY ZONED GENERAL INDUSTRIAL, LOCATED AT 8013 HIGHWAY 50 EAST, APN 005-611-35.

(5:33:01) – Chairperson Sattler introduced the item and explained the meeting format to the audience, noting that public comment will take place after the Staff and the plant operator presentations; however responses will be reserved until after all the comments have been heard. Ms. Sullivan presented the Staff Report, incorporated into the record, and responded to clarifying questions. She also clarified for Chairperson Sattler that this item was agendized as a one-year review of the approval of the modification of the Special Use Permit, and confirmed that in a one-year period there had been 226 complaints.

(5:42:35) – Business Operator Robert Matthews introduced himself as a South Curry Street resident and explained that many of the calls had been during non-operational hours, and that he had been running the plant for “two nights this year”. He also confirmed for Commissioner Dawers, that he had been using an additive [for odor mitigation] “since the last meeting, non-stop”. Chairperson Sattler reiterated the public comment format and expectations and invited the public to comment.

(5:45:00) – Michele Busk introduced herself as a resident of Traci Lane in Mound House and stated that she “got immediately nauseated; it was so strong” upon walking outside of her house that morning from the odor. She stated that “they were cooking about a week and a half ago at night. They were cooking the night before last. I have woken up several times at 3:00 in the morning, as they start cooking then. It makes a horrible sound. But most of all, I can’t breathe, I can’t go outside, I am in my house, all my windows are closed.” She stated that she is forced to close “everything” because she has woken up at night “coughing, and choking, and not being able to swallow.” She requested to know what the chemicals are that “they are putting in to stop the smell,” as they are not stopping the smell, and she believes they may be “more dangerous than the smell.” Ms. Busk mentioned her concern for the property value of her home and stated that no one had told her about the asphalt plant despite buying the property after Mr. Matthews built it. She also stated that she would invite “anybody” to her house to smell the odor firsthand. She stated that she “called this office so many times. I’ve called NDEP office so many times, so they said ‘start calling every day.’” Ms. Busk commented on how the law that Ms. Sullivan referred to should be changed in her opinion. She also mentioned how she’d get a lawyer if she could afford to do so.

(5:49:19) – Judy Lucas introduced her as a resident of Marianne Way in Mound House and thanked the Commission, NDEP, and Code Enforcement for trying to help the residents involved. Chairperson Sattler reminded Ms. Lucas to remain on topic, and Ms. Lucas stated how there were “a lot of angry people” at the meeting, and she was trying to “stop them from being so angry.” She stated that this was approximately the third or fourth time many of the residents had attended the meeting regarding the asphalt plant, and she did not “know how this man could do what he’s doing” to them and to their children. She commented that she is “so worried about these little children in our neighborhood. Yes, the smell is there, but what about the ashes? Where do these ashes all go? And they’re toxic.” Ms. Lucas referenced a document from OSHA “how bad it is.” She stated that she would not be able to afford

another house and welcomed the Commission members to her house to experience the asphalt plant firsthand. Ms. Lucas called the applicant a “terrible, terrible man” and mentioned how he runs the plant at times he was not directed to. She stated that “he knows how he can do his cooking ... and have it shut down before NDEP gets there ... He just does not care ... The time that he started, we were Carson City, and nobody bothered to look over the hill to see us, and we were there, and I don’t understand how that can happen ... We’re all getting sick ... If I’m getting sick, what’s happening to children?”

(5:53:29) – Chairperson Sattler reminded those commenting to keep comments at about three minutes or less.

(5:53:34) – Melanie Harris introduced herself as a resident of Marianne Way in Mound House and stated that because she works graveyard shifts, she leaves for work late and has smelled the asphalt plant when leaving as well as in the morning when she has come home to indicate that Mr. Matthews is cooking at night. She stated that the residents were never notified about the plant. She mentioned how many residents were forced to “tape up” their swamp coolers, and that she has had to buy a portable one because she has not been able to use her swamp cooler in three years. She stated that they “can’t sell our houses because we would disclose [the effects of the asphalt plant].” She showed pictures of the smoke from the asphalt plant to the Commissioners and indicated how the smoke goes over the hill and into her neighborhood. Ms. Harris stated that “no one is helping” them and had not in the three years the plant has been in operation, and they “should be rezoned or [Mr. Matthews] should be out of there.”

(5:55:19) – Kaila Lopez introduced herself as a resident of Mound House and stated that she has lived in Mound House her entire life, and her kids are “growing up there.” She stated that she was not warned about the asphalt plant, and she has been on short term disability “pretty much this whole year.” She commented on how she could not open her windows, and the kids could not play outside or go to the park nearby because of the plant. She stated that the smell from the plant “is a really strong smell. I don’t think that he realizes it.” She referred to the pictures taken by Ms. Harris and stated that she has “seen it worse where I’m coming from Dayton, and our whole area, even further down, is just smoke. It is unbearable how bad it is.”

(5:57:17) – Cindy Jones introduced herself and stated that she and her husband had retired in the neighborhood recently to be closer to their daughter. She noted that she and her husband were excited about relocating there, and her husband has chronic obstructive pulmonary disease (COPD) and had been “managing it very well.” Ms. Jones stated that her husband had been at Quick Care every month for breathing, since August, and his medications had been changed. She commented that the “fumes are one thing,” but they “didn’t even know what was going on,” and her husband had mentioned to her the sounds from the plant that could be heard “all night long.” She stated that they cannot sell, although she had realized the long-term effects of living near the plant, and they would not want to because they “love it here.” She also pointed out Fernley’s use of the regenerative thermal oxidizer to “depreciate this stuff over many years.” She stated that while she did not want the applicant to leave, she was afraid of losing her husband, who is 71-years-old and in “very good health,” and he had been fatigued from what she believed was the effects of the plant.

(5:59:51) – Lynne Stillman introduced herself as a resident of the Carson Highlands Mobile Home Park in Mound House, and she stated that “the fumes have a tendency to lay in the lower areas,” which she indicated is where she lives. She pointed out that that morning “it was so bad, which it usually is on a

daily basis and in the evenings also that I have a previous lung problem where I had a lung collapse twice ... I know now that with these fumes I can tell as soon as I open a door or a window that I can feel the heaviness in my chest, and I also get migraines from these fumes, and I really think it's time that they do something about it ... I wanted to let you know that it's definitely a problem in my area."

(6:01:00) – Octavio Juarez introduced himself as a resident of Mound House and stated that he is translating for his father. He commented that every time in the morning that he wakes up to go to school, "the pain is really strong" and explained how his eyes burn, and his head hurts "really bad" when he wakes up on the weekends. He also noted that the plant affects his little brother more because he has asthma.

(6:01:54) – Ed Wawrytko introduced himself as the owner of Ed's Custom Sheds in Mound House and stated that he lives in his shop. He believed that Mr. Matthews had been running his product "straight through without using the bag house" and explained that the bag house refers to the filter, and that the bag house is being avoided. He noted that he noticed nothing coming out of the bag house stack while there had been a huge amount of dust and debris coming out where the trucks were being loaded. He stated that Mr. Matthews was getting his product "anyway [he] can" while the residents were the ones "suffering from it." He mentioned having seen "big flumes of dust going over the houses" and a "plume of dust" as he was traveling that day, and that the streak of sunlight showed that the fumes were a "brownish color." He requested a field inspector go to inspect Mr. Matthews's plant "immediately." He also stated that "what [Mr. Matthews] is doing to [the residents] is ungodly."

(6:04:39) – Loyaul Fraker introduced himself as a 30-year resident of Mound House and mentioned that the asphalt plant could not be "grandfathered in." He stated that Monday through Friday, sometimes through Saturday, it is "unbelievable how loud" the plant is in the neighborhood, and the smoke comes through the neighborhood to the point that "you can't even see the houses down the street" when the wind is "just right." He called the situation "asinine." He stated that although he and the other residents are in a different county, they are "the ones suffering" and "nobody in Carson City is suffering from this."

(6:06:13) – Dave Lockhart introduced himself as a resident of Mound House and affirmed what the other commenters had stated. He stated that he smells the emissions from the plant "every morning" when he walks out his front door for work at 8:00 a.m. He also commented that he believed that Mr. Matthews is running the plant "outside his parameters at night," as Mr. Lockhart mentioned he works on a lot of hobbies at night in the garage and the backyard, and he can still smell the fumes at approximately 8:00 p.m. – 10:00 p.m. He stated that people that live on Linehan Road that mentioned to Mr. Lockhart having seen plumes from the plant in the air. He requested that the asphalt plant get shut down or "clean the stuff up." He pointed out that his sense of smell is "not that good, so if [he is] smelling it, [he] can't imagine [how] it is for people who have a normal sense of smell. It's going to be a lot worse, and it's not healthy for us."

(6:07:29) – Melissa Fraker introduced herself and stated that she had "been here ever since this has started." She stated that her lungs had been getting "super, super bad." She commented that she had the plant on film running at 3:00 a.m. and at other unpermitted times. She noted herself and others being unable to breathe, and the air quality emissions had been up to 20 percent according to Ms. Fraker. She stated that Mr. Matthews shuts the plant down for fifteen minutes to comply with the guidelines, and he

is “well aware of what he does ... in the operations area.” She requested information on how far an asphalt plant could be from a community, and she noted that she did not know “why we are going on 1975 ratings when now we are in 2019.” The public applauded her statement. She also commented that “it’s over the period of time where we can live comfortably.” Ms. Fraker brought to the Commission’s attention a petition with 75 signatures, and Chairperson Sattler advised Ms. Fraker that the Commission could not take her petition at that time. Ms. Fraker thanked the Commission members for hearing her and requested that they “please help” the residents.

(6:12:00) – Jan Wiley introduced herself as a resident from Traci Lane in Mound House, and she pointed out the Special Use Permit that had been modified for the asphalt plant to modify the hours of operation, and that Mr. Matthews was not abiding by the indicated hours according to those that had commented. She inquired about when Mr. Matthews could run the plant, and Chairperson Sattler stated that the Commission would take input and later respond with answers. Ms. Wiley informed the Commission that Mr. Matthews “does run on Saturdays, and sometimes you want to enjoy your backyard on Saturdays, and you can’t.”

(6:12:58) – Juan Delgado introduced himself as a resident from Chari Drive in Mound House, and stated that back when he and his wife purchased their house in 2003, it was quiet and there were no smells in their neighborhood, but now “we can’t even go outside, it’s so bad.” He commented that one of his children is still living with him, and Mr. Delgado and his wife have thought about selling the property.

(6:13:52) – Rosa Irigoyen introduced herself as a resident from Jenni Lane in Mound House and stated that the fumes “are really so bad” and they had been “bothering” the residents in the area.

(6:14:50) –Matthew Wilkie introduced himself as a “brand new home owner in the community” and stated that he had purchased his house approximately a month ago and had not been informed by his realtor about the asphalt plant. He commented that “it is almost a constant daily struggle and process” and he “almost regret my decision to purchase in this community” despite him “really looking forward to it” and it being “a closer commute” to his work. He mentioned that the animals had also been affected by the plant and noted his dog had been wheezing and coughing more. He stated that the product Mr. Matthews had been running for a year was “clearly not” working, and Mr. Matthews “is profiting while we’re suffering. It should be on his dime to get this fixed.”

(6:17:04) – Lyon County Code Enforcement Officer David Scott introduced himself and noted all the complaints he had received, along with inquiries from several organizations, including the Lyon County Board of Commissioners and the Planning Department. He wished to hear the Commission’s decision to take back to “the people I work for”.

(6:18:12) – Chairperson Sattler relayed his experience of working with an asphalt plant in the past, adding that he had personally experienced the strong odor of Mr. Matthews’ plant and believed “if there’s anything we can do, I think we have to try to make an effort to try and make something of this issue” to be good neighbors. Ms. Sullivan reminded the Commission that in October 2018 they had crated the following condition of approval (#17): *The operator shall utilize Ecosorb in operations to suppress odors.* However, the use of regenerative thermal oxidizer had not been one of the conditions. Commissioner Preston was informed that the following operating hours were approved in 2018 as condition of approval #13: *Operating hours are to be from 6:00 a.m. to 6:00 p.m., Monday through*

Saturday. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. The applicant may work at night or on a Sunday up to 30 times in a calendar year. When work is to occur at night or on a Sunday, the operator shall advise the Community Development Director in writing 72 hours prior. Ms. Sullivan stated that the Nevada Division of Environmental Protection (NDEP) and Carson City Code Enforcement had been to the plant several times to monitor start times and had been unable to find violations. Commissioner Esswein noted that the issue was the plant’s inability to control the odor; therefore, he believed that condition #17 should either change to require the use of the regenerative thermal oxidizer or “move to revoke the permit”. Mr. Johnson clarified that “revocation is not an option tonight...there’s a specific process laid out in Carson City Municipal Code (CCMC) for revocation.” Ms. Sullivan suggested amending condition of approval (#17) to state: *Operator shall utilize a regenerative thermal oxidizer.* Commissioner Esswein recommended not permitting Mr. Matthews to operate until installing the oxidizer. Ms. Sullivan recommended requesting that “the Community Development Director begin an investigation into the Special Use Permit” as the first step towards the revocation process.

(6:26:45) – Commissioner Dawers recommended not having the entire plant operate without the oxidizer, adding that “a year ago we promised these people that we would get the smell taken care of.” Ms. Sullivan suggested inserting finding #2, compatibility with the neighborhood as part of the motion. She also reminded the public that Mr. Matthews can appeal this evening’s decision. Chairperson Sattler entertained a motion. Commissioner Dawers was informed that tonight’s decision will be revisited in a year, as outlined in the conditions of approval. Mr. Plemel explained how the noticing occurs between Carson City and Lyon County.

(6:29:07) – MOTION: “I’d like to propose that we amend SUP 10-115-2, to amend conditions 13 to eliminate night operations except for emergencies by striking: *The applicant may work at night or on a Sunday up to 30 times in a calendar year. When work is to occur at night or on a Sunday, the operator shall advise the Community Development Director in writing 72 hours prior, and revising condition 17 to require the installation of the regenerative thermal oxidizer, and prior to any continued use of this facility that equipment will be installed.*”

(6:24:20) – Vice Chair Borders inquired about Mr. Matthews’ business commitments since he would be unable to operate the plant until the new equipment is installed. Mr. Plemel clarified that the conditions of approval will be effective after the appeals period of 10 days; however, should Mr. Matthews decide to appeal, the outcome will be effective after the final decision by the Board of Supervisors. Ms. Sullivan recommended adding a date to condition of approval 18.

(6:39:04) – Commissioner Esswein amended his motion to include a date of October 2020 for the next review of the Special Use Permit. The seconder accepted the amendment. Chairperson Sattler called for the vote.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Sattler
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(6:40:20) – Commissioner Preston recommended reporting any odors in the next 10 days because of inversions at this time of year that exacerbate health conditions. Commissioner Dawers suggested contacting U.S. House and Senate elected officials as well.

(6:41:20) – Mr. Johnson advised that any request for the Community Development Director to investigate into possible revocation must be agendaized for the December 2019 meeting.

E.9 MPA-19-178 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION TO MAKE RECOMMENDATIONS TO THE BOARD OF SUPERVISORS REGARDING THE ANNUAL MASTER PLAN REPORT.

(5:19:22) – Chairperson Sattler introduced the item. Mr. Plemel gave background and reviewed a presentation, incorporated into the record, highlighting the Planning Staff deliverables concerning the Commission’s annual recommendations to the Board of Supervisors regarding the implementation of the Master Plan. Mr. Plemel, along with Mr. Pottéy, also responded to clarifying questions by the Commissioners, especially regarding water resources. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(5:32:40) – MOTION: I move to recommend to the Board of Supervisors acceptance of the Master Plan annual report as presented by Staff.

RESULT:	APPROVED (7-0-0)
MOVER:	Sattler
SECONDER:	Borders
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

F. STAFF REPORTS (NON-ACTION ITEMS)

(6:45:10) – Mr. Plemel updated the Commission on the Title 18 updates discussed during the first Board of Supervisors meeting in November. He also noted that the workshops will resume in January of 2020, and reminded the Commission that the next Planning Commission meeting will take place on Tuesday, December 18, at 3:30 p.m. with the Andersen Ranch Subdivision discussion agendaized for a 5:30 p.m. start time.

- F.1 - DIRECTOR'S REPORT TO THE COMMISSION.**
- FUTURE AGENDA ITEMS.**
- COMMISSIONER REPORTS/COMMENTS.**

(6:49:02) – Chairperson Sattler indicated that he would remain on the Commission until the sale of his house. Commissioner Esswein recommended postponing the Andersen Ranch discussion until January 2020 so he can be present.

G. PUBLIC COMMENT

There were no public comments.

H. FOR POSSIBLE ACTION: FOR ADJOURNMENT

(6:50:40) – MOTION: Chairperson Sattler adjourned the meeting at 6:50 p.m.

The Minutes of the, November 11, 2019 Carson City Planning Commission meeting are so approved this 17th day of December, 2019.



Carson City Planning Division

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
planning@carson.org
www.carson.org/planning

MEMORANDUM

Planning Commission Meeting of November 19, 2019

TO: Planning Commission

Item E-8

FROM: Hope Sullivan, AICP
Planning Manager

DATE: November 6, 2019

SUBJECT: SUP-10-115-2: For Possible Action: Discussion and possible action regarding the one year review of the approval of a modification to a Special Use Permit for an Asphalt Plant on property zoned General Industrial, located at 8013 Highway 50 East, APN 005-611-35.

STAFF SUMMARY: At its meeting of October 24, 2018, the Planning Commission approved the modification of a Special Use Permit for an Asphalt Plant, specifically modifying the hours of operation. In approving this modification, the Planning Commission included a condition of approval mandating a review in one year. The condition further explains that in conducting the one year review, the Commission shall conduct a public hearing. Based on input received at the public hearing, the Commission may modify conditions of approval, or request staff to schedule additional reviews of the Special Use Permit.

Recommended motion:

No motion is proposed.

Noticing

On October 24, 2019, notice of the public hearing was mailed to 33 property owners within 7500 feet of the subject property. This notice also appeared in the newspaper, on bulletin boards throughout the City, and on the City's and State's websites.

On October 24, 2019, an email was sent to Robert Matthews of Tahoe Western Asphalt advising him of the public hearing.

On October 24, 2019, an email was sent to Lyon County, Nevada Senior Planner Robert Pyzel informing him of the public hearing.

On October 28, 2019, the Planning Manager spoke with Robert Matthews of Tahoe Western Asphalt and advised him of the public hearing.

Comments

Since the meeting of October 24, 2018, the City's Code Enforcement staff has received 99 complaints about the subject use. Ninety eight of the complaints were about odors, and one complaint was in regard to hours of operation.

Based on complaints, Code Enforcement staff has documented visits to Mound House on six occasions. During one visit, there was no odor detected, during four visits there was a faint odor detected, and during one visit there was a strong odor detected. Staff contacted Mr. Matthews, the plant operator, the morning of the strong odor and Mr. Matthews advised the reason for the strong odor was that he was low on propane. This information is documented in a memorandum dated November 6, 2019 from William Kohbarger, Carson City Code Enforcement to the Planning Manager.

Nathan Rash, Compliance Officer with the Nevada Division of Environmental Protection, has advised that between October 24, 2018 and October 22, 2019, the Bureau of Air Pollution Control (BAPC) has received 127 complaints, all odor complaints. Although strong odors and opacity has been observed, the source has been intermittent and the threshold for a violation has not been met.

In an October 24, 2019 email, Lyon County Senior Planner Rob Pyzel advised that Lyon County has not received any recent complaints from the Mound House community in regard to odors and smoke from Tahoe Wester Asphalt's facility.

Given a lack of substantiated concerns, staff is not recommending any further action.

Attachments:

- November 6, 2019 Memorandum from Code Enforcement to the Planning Manager
- October 22, 2019 email from Nathan Rash, Nevada Department of Environmental Protection.
- October 24, 2019 email from Robert Pyzel, Senior Planner, Lyon County, NV
- Executed Notice of Decision SUP-10-115-2
- Staff Report Dated October 24, 2018



Carson City Code Enforcement

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
codeenforcement@carson.org
www.carson.org/planning

MEMORANDUM

TO: Hope Sullivan, Planning Manager

FROM: William Kohbarger, Code Enforcement

DATE: November 06, 2019

SUBJECT: Tahoe Western Asphalt LLC
8025 Hwy 50 E

The following is a Code Enforcement summary of all the complaints, investigations and interactions involving Case #101162, Tahoe Western Asphalt LLC.

Pursuant to your request, I am providing information on this case from October 24, 2018 forward.

Number of Complaints: 99

Odor complaints = 98

Hours of operation = 1

Notice of Violations:

None

Visits to Mound House:

November 05, 2018 – faint odor detected;

April 26, 2019 – no odor detected;

August 01, 2019 – strong odor detected;

September 18, 2019 – faint odor detected;

September 20, 2019 – faint odor detected;

October 02, 2019 – faint odor detected.

The following paragraphs are an entry Code Enforcement Johnston placed into SWEEPS:

August 1, 2019 Code Enforcement Officer Johnston arrived to work and received 2 voice mail messages regarding a bad smell being emitted from the asphalt plant. I also received an email from Mr. Lucas with a photo of the plant operating.

At approximately 0930hrs, I performed a site visit to the Mound House Mobile Home Park area where all the complainants live. I arrived within the area and stopped at the intersection of Highlands and Traci streets. I easily identified an odor that is the smell of asphalt within the area. I continued to drive in the neighborhood and I was able to smell the same asphalt odor in

the upper Miriam St. area. I performed another drive through the neighborhood and smelled the same odor again within the same locations at the intersection of Highlands and Traci, Traci and Miriam and the entire Miriam St. After stopping and writing down the locations of the odor I went to observe the asphalt plant. I observed them operating from the water tank and took photos and video of the plant loading an A&K Earthmovers Truck with asphalt. I was sitting at a higher elevation than the plant and did not smell the asphalt odor. I did observe the wind was traveling East in the direction of the mobile home park being effected. I called and notified NDEP Supervisor Travis Osterhout.

I also notified Carson City Planning Manager Hope Sullivan who called Tahoe Western Asphalt Owner Mr. Mathews. Mr. Mathews stated he ran low of propane supply which makes his asphalt plant burn differently than from a normal supply. Mr. Mathews stated that is the reason why his operation has changed today. Ms. Sullivan also asked him if he has made any changes to his operation and he said no and he has been extremely busy with business. Ms. Sullivan asked him if he is still using and supplying the odor eliminating additive and he said yes. Mr. Mathews informed us that he has repaired the propane shortage and is back to normal operating procedures.

I called Mr. Lucas at approximately 0920hrs, and asked if he would be willing to meet at his house in about 25 minutes. Mr. Lucas agreed. As I was driving towards Mound House, I observed that Tahoe Western Asphalt was currently operating and emitting large plumes of white smoke or vapor from the plant. The smoke was coming from both the large tall cylinder tank and the asphalt plant loading tower. There was also quite a bit of dust coming from the N.E. aggregate mine within the property. As I drove East on HWY 50 passing the entrance to the asphalt plant and continued towards Mound House I also smelled what I recognized as burning asphalt. I entered the Lucas's mobile home housing complex and the smell became stronger. I drove through the housing complex to the Lucas's residence and observed the smell at the way to their house. The smell and odor was noxious and unpleasant. I met with Mr. Lucas who stated his concerns and described how he has had to tolerate the unbearable smell for over a year. I engaged in a long conversation with Mr. Lucas and his wife Judy. I explained to the both of them how asphalt is made, transported and how it is used to build roads. I also explained to them that the Carson City Code Enforcement Department has received all their complaints and documented everything regarding Tahoe Western Asphalt and their operations and violations. I told the Lucas's that our Departments have done everything we possibly can to ensure the company is in compliance with the CCMC's and have corrected their violations. I advised them that they do have the right to file a criminal complaint with the Carson City District Attorney's Office and they may do so with the NRS nuisance violation. I explained that I would not know which jurisdiction would be best and they may want to file a criminal complaint with the Lyon County DA's Office as well.

I instructed them that we will continue to take their complaints and document them for City public record and if we are able to take Code Enforcement action we would continue to do so.

Hope Sullivan

From: Nathan Rash <nrash@ndep.nv.gov>
Sent: Tuesday, October 22, 2019 7:57 AM
To: Hope Sullivan
Cc: Travis Osterhout
Subject: RE: please forward

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good morning Hope,

Since October 24, 2018 the BAPC has received 127 complaints regarding TWA originating from 17 unique parties (excluding those who wished to remain anonymous). Our official record lists all of these complaints as odor complaints but it is often the case that when I call or speak with the reporting party visible emissions are also a concern (often phrased as "smog", "smoke" or some variant thereof). The BAPC is in consistent contact with the reporting parties by telephone and most of the parties report odor as their primary concern followed closely by the health effects the facilities emissions may have on them.

The BAPC has made an effort to investigate as many of these complaints as possible, both directly responding to complaints as they are called in and by doing random checks of the Moundhouse Highlands neighborhood. During the timeframe in question, no violations were issued. Please note that this is not to say that odors and visible emissions were not observed. There has been several cases where a strong odor or elevated opacity was observed, but since both our odor and opacity regulations involve an averaging period and the nature of the source is intermittent, the threshold for a violation was not met.

I hope this helps. Should you require any further information or if I can be of any assistance please let me know.

Thank you,

Hope Sullivan

From: Rob Pyzel <rpyzel@lyon-county.org>
Sent: Thursday, October 24, 2019 12:21 PM
To: Hope Sullivan
Subject: Re: Tahoe Western Asphalt

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hope;
Thanks for the update. Glad you get a night off!
I asked the Code Enforcement Officer and County Manager if they had received any recent complaints from the Mound House community in regard to odors and smoke from Tahoe Western Asphalt's facility. They both indicated they had not. I also have not heard any recent complaints in regard to Tahoe Western Asphalt's facility west of Mound House.

Cheers,

Rob Pyzel, Planner
Lyon County Planning Department
(775) 246-6135; X-2473
rpyzel@lyon-county.org

Definition of caveat emptor: a principle in commerce: without a warranty the buyer takes the risk.

On Thu, Oct 24, 2019 at 11:48 AM Hope Sullivan <HSullivan@carson.org> wrote:

Rob:

Due to a noticing error, the Planning Commission meeting of October 30 is cancelled. The Planning Commission will perform the one year review on Tahoe Western Asphalt at its meeting of November 19, 2019. This item will not be heard before 5:30 PM.

Hope Sullivan, AICP

Planning Manager

Carson City, NV 89701

775-283-7922



Carson City Planning Division

108 E. Proctor St.

Carson City, Nevada 89701

(775) 887-2180

Planning@carson.org

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★ CLERK ★
FILED

Time 12:46 p.m.

OCT 31, 2018

By K. Barre
Deputy
Carson City, Nevada

PLANNING COMMISSION

October 24, 2018

NOTICE OF DECISION – SUP-10-115-2

An application was received to consider a request to modify a Special Use Permit for an Asphalt Plant, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The subject property is zoned General Industrial, and is located at 8013 Highway 50 East, APN 008-611-35.

The Planning Commission conducted a public hearing on October 24, 2018, in conformance with City and State legal requirements and approved SUP-10-115-2 based on the findings contained in the staff report and subject to the following conditions of approval.

CONDITIONS OF APPROVAL:

Note the base language in these conditions are the conditions of approval approved on January 26, 2011 with SUP-10-115. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears with a strikethrough.

The following shall be completed prior to commencement of the use:

1. 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 will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.

The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.
11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP **Bureau of Air Pollution Control Air Quality Operating Permit, including days and hours of operation. The applicant shall also comply with applicable requirements** for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from ~~7:00~~ **6:00** a.m. to 6:00 p.m., Monday through Saturday, **with gates open to customers only during these hours. Startup of equipment may occur between 5:30 AM to 6:00 AM.** Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. **The applicant may work at night or on a Sunday, other than on an emergency basis, up to 30 times in a calendar year. When work is to occur at night or on a Sunday (other than on the emergency basis), the operator shall advise the Community Development Director in writing at least 72 hours prior. Nothing in this condition shall be construed as superseding any limitation on hours of operation put in place by NDEP.**
14. **A roof shall be installed and maintained over the truck loading chute area.**
15. **Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.**
16. **The vent condenser that has been installed must be maintained.**
17. **The operator shall utilize Ecosorb in operations to suppress odors.**
18. **This Special Use Permit is subject to review in one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.**

This decision was made on a vote of 5 ayes, 1 nays, 1 absent.



Hope Sullivan, AICP
Planning Manager

HS:lr

Emailed on: 10/31/2018

By: lr

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

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



OWNER/APPLICANT SIGNATURE

DATE 11-2-2018



PLEASE PRINT YOUR NAME HERE

RETURN VIA:

Email to: planning@carson.org
Fax to: (775) 887-2278
Mail to: Carson City Planning Division
108 E. Proctor St.
Carson City, NV 89701

STAFF REPORT FOR PLANNING COMMISSION MEETING OCTOBER 24, 2018

FILE NO: SUP-10-115-2

AGENDA ITEM: E.8

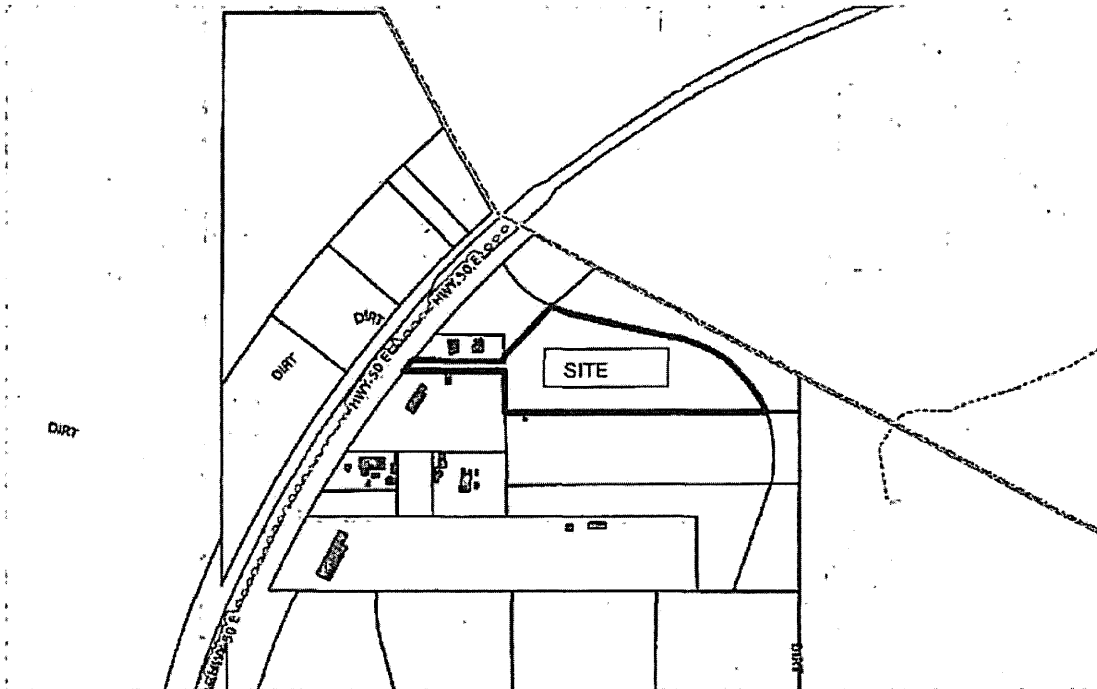
STAFF CONTACT: Hope Sullivan, Planning Manager

AGENDA TITLE: For Possible Action: To consider a request to modify a Special Use Permit for an Asphalt Plant, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The subject property is zoned General Industrial, and is located at 8013 Highway 50 East, APN 008-611-35. (Hope Sullivan, hsullivan@carson.org)

STAFF SUMMARY: On January 26, 2011, the Planning Commission approved a Special Use Permit for an asphalt plant and aggregate crushing facility on the subject property. That approval included a condition of approval that limited the hours of operation to Monday through Saturday, 7:00 AM – 6:00 PM. The applicant is now seeking to modify to the Special Use Permit to have expanded hours. The Planning Commission has the authority to modify a Special Use Permit.

RECOMMENDED MOTION: "I move to approve a request to modify Special Use Permit SUP-10-115-2, to modify the hours of operation based on the ability to make the seven required findings in the affirmative and subject to the recommended conditions of approval contained in the staff report."

VICINITY MAP:



RECOMMENDED CONDITIONS OF APPROVAL

Note the base language in these conditions are the conditions of approval approved on January 26, 2011 with SUP-10-115. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears with a strikethrough.

The following shall be completed prior to commencement of the use:

1. 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 will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.

The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.

11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from ~~7:00~~ 6:00 a.m. to 6:00 p.m., Monday through Saturday. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. The applicant may work at night or on a Sunday up to 30 times in a calendar year. When work is to occur at night or on a Sunday, the operator shall advise the Community Development Director in writing 72 hours prior.
14. A roof shall be installed and maintained over the truck loading chute area.
15. Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.
16. The vent condenser that has been installed must be maintained.
17. The operator shall utilize Ecosorb in operations to suppress odors.
18. This Special Use Permit is subject to review in one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.080 (Special Use Permits)

MASTER PLAN DESIGNATION: Mixed Use Commercial and Public Conservation,
Virginia & Truckee Railroad Gateway Specific Plan
Area.

ZONING DISTRICT: General Industrial

KEY ISSUES: Will the proposed hours of operation be compatible with adjacent land uses and properties?

SURROUNDING ZONING AND LAND USE INFORMATION

NORTH: General Industrial / Vacant V+T railroad tracks, Lyon County/Carson City boundary
SOUTH: General Industrial / Industrial Uses
EAST: General Industrial / Vacant V+T railroad tracks
WEST: General Industrial / Industrial Uses

SITE HISTORY

January 03, 1984 the Regional Planning Commission approved a Special Use Permit application, U-83-37 form Eagle Valley Construction to allow a portable rock crushing operation on site.

January 04, 1984 the Board of Supervisors reviewed and approved U-83-37.

January 22, 1985 the Regional Planning Commission reviewed the previously approved U-83-37 and indicated that there were no problems with the operation and continued approval.

January 23, 1985 the Board of Supervisors approved a review of the previously approved Special Use Permit U-83-37.

February 07, 1985 the Board of Supervisors approved the review of U-83-37.

August 25, 1994 a Special Use Permit U-94/95-123 was submitted to allow the extraction of materials and the installation and operation of a portable rock crusher for aggregate road base.

September 19, 1994 the Community Development Department determined that a new Special Use Permit was not required as long as the new operator is subject to the conditions of approval of Special Use Permit U-83-37.

September 19, 1994 the applicant of Special Use Permit SUP-94/95-13 submitted a request for a formal withdrawal of the Special Use Permit.

November 02, 2010 City staff conducted a Major Project Review of the proposed Far West Hybrid Asphalt Plant. At that time comments were provided to the applicant related to the proposed project.

November 17, 2010 the proposed project was presented to the Carson City Airport Authority. The Airport Authority voted to send its disapproval of the proposed wind turbine to the Board of Supervisors and the Planning Commission.

January 26, 2011 the Planning Commission approved a Special Use Permit for an Asphalt Plant and Aggregate Crushing Facility.

September 28, 2011 the Planning Commission approved a Special Use Permit to allow four 190 foot tall wind turbines on the property.

February 2, 2016 the Community Development Department found that the Special Use Permit for the aggregate and the batch plant operations was still valid.

March 15, 2016 a Major Project Review (MPR) meeting was conducted relative to the asphalt plan and crushing facility. At the meeting, applicant advised plans were not current, and MPR comments were not prepared.

ENVIRONMENTAL INFORMATION

FLOOD ZONE: Zone X

SLOPE/DRAINAGE: The site is primarily flat
SEISMIC ZONE: Zone II: Moderate

SITE DEVELOPMENT INFORMATION

PARCEL AREA: 10 Acres
EXISTING LAND USE: Asphalt plant

DISCUSSION:

Per Carson City Municipal Code (CCMC) 18.04.150, Asphalt Manufacturing is a Conditional Use in the General Industrial (GI) Zoning District. At its meeting of January 26, 2011, the Planning Commission approved Special Use Permit SUP-10-115 allowing for an asphalt plant and aggregate crushing facility on the subject property. The Special Use Permit was approved subject to conditions of approval, including:

13. *Operating hours are to be from 7:00 AM to 6:00 PM, Monday through Saturday. Operating on Sunday would be on an emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis.*

The applicant is seeking to modify the conditions of approval, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The applicant has advised staff that the expanded hours are necessary to meet customer demand, including anticipated demand from the South Carson Street project and improvements on Highway 50 from Stage Coach to Silver Springs. Staff cannot regulate who purchases the asphalt and where it is used. Therefore, staff recommends that the conditions of approval remain silent of whether the asphalt is being manufactured for a public project or a private project.

The process to modify the Special Use Permit is the same as obtaining a Special Use Permit. The Planning Commission conducts a public hearing, and is authorized to issue the modification to the Special Use Permit upon making each of the seven required finding of fact in the affirmative. The conditions of approval may change as necessary to make the required findings.

Although the Special Use Permit was approved in 2001, operations of the Asphalt Plant actually commenced on July 9, 2016. The Special Use Permit was still valid in 2016 as the aggregate crushing facility had commenced work within twelve months of approval of the Special Use Permit.

Since operations began in July 2016, there have been three notices of violation issued by the City's Code Enforcement staff for operating outside of approved operating hours. The notices of Violation cited starting work before 7:00 AM and working on Sunday.

The notices of violation were only issued in cases where Code Enforcement staff could validate the violation. Although only three notices were issued, between February 20, 2018 and September 26, 2018, fifty-six complaints were received. These complaints were primarily related to working outside of hours of operation and odors.

In addition to the City, the State's Department of Environment Protection (NDEP), specifically the Bureau of Air Pollution, has enforcement responsibility, specifically with respect to air quality and odors. In January 2017, NDEP cited the business for failing to notify NDEP of initial startup, and assessed fines of \$1,750. Between January 2017 and March of 2018, NDEP cited the business seven times for violations related to air quality, and assessed fines of \$61,055. NDEP only recently acquired equipment to test odors.

The applicant has provided four inspection reports dated June 14, 2018, August 15, 2018, September 18, 2018, and September 28, 2018 demonstrating compliance with NDEP's regulations. The applicant also provided visual inspection reports dated October 5, 2018.

Tahoe Western Asphalt, the business operator, has made modifications to operations since commencement in order to address air quality and odors. These modifications include:

- Adding a steel roof of the truck load chute area.
- Adding a vent condenser to the oil tank.
- Adding an econ burner analyzer for testing.
- Acquired an Ecosorb odor clarifier.
- Adding a complete water system for dust control over all plant systems.

The asphalt plant is located in an area that was previously known as the Tip Top Pit. It is also located in the Eastern Portal-Virginia & Truckee Railroad Gateway Specific Plan Area. The project site is located on a flat portion of the 26.93 acre site. Currently, aggregate is trucked to the site, and the asphalt is manufactured on the site.

When presented in 2011, staff report stated "Once fully functional the burner-less drum will dedicate a set amount of power to dry material, resulting in virtually no emissions. To power both the asphalt production and aggregate crushing operations, the applicant is proposing to produce its own power with the use of a General Electric 2.5 megawatt wind turbine. In addition to the electricity from the turbine, the plant will also utilize all the heat from the turbine's heat exchanger and the generation set to circulate heat through the bins. The machinery proposed for the asphalt production is a CMI SVM2000 Drum Mix Plant. The asphalt production will have two 150 ton silos that are proposed at 75 feet in height each which will also exceed the 45 foot height limit in the GI zoning district. The applicant will also utilize a mobile aggregate crushing system (MACS)." The staff report also noted that the plant would be powered by a Wind Energy Conversion System, with natural gas serving as a backup power source.

The specified equipment is not the equipment that is being utilized, and the plant is powered by propane.

The Planning Commission may approve the modifications to the Special Use Permit upon making each of the seven required findings in the affirmative. The applicant provided the finding utilized in the January 26, 2011 staff report to the Planning

Commission. Therefore, that report is included in its entirety as it was submitted by the applicant as part of his application.

PUBLIC COMMENTS: Public notices were mailed on September 28, 2018 to 101 property owners in the area. In Carson City, noticing went to 33 property owners within 7500 feet of the property. In Lyon County, noticing was provided based on input by Lyon County planning staff based on its understanding of property owners who would be potentially impacted. One comment in opposition has been received to date. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

OTHER CITY DEPARTMENT OR OUTSIDE AGENCY COMMENTS: The request for expanded hours was routed to various City agencies for comment. No City agencies had comments.

FINDINGS: Staff recommends approval of the expanded hours for the asphalt plant based the findings below, pursuant to CCMC 18.02.080 (Special Use Permits), subject to the recommended conditions of approval, and further substantiated by the applicant's written justification.

1. The use will be consistent with the objectives of the Master Plan elements.

Staff finds the proposed expanded hours will be consistent with the Master Plan, specifically noting the following.

Chapter 3: A Balanced Land Use Pattern

Establishing a balance of land uses within the community promotes vitality and long-term economic stability. A balanced community is able to provide employment opportunities for its residents as well as a diverse choice of housing, recreational opportunities, and retail services. Carson City strives to maintain its strong employment base and extensive network of public lands while increasing housing options and the availability of retail services to serve residents of the City and surrounding growth areas.

Chapter 5: Economic Vitality

Carson City derives its overall health and economic success from its ability to maintain a strong and diverse base of jobs, to provide a supply of varied housing choices for its employees, to provide a range of services and recreational opportunities for residents and visitors, and to generate tourism through the promotion of its unique characteristics and historic amenities. Furthermore, the City recognizes the revitalization of the Downtown as an important component of the community's long-term health and vitality. The Master Plan promotes the continued enhancement of the Downtown and surrounding residential neighborhoods as the focus of the community.

5.1c—Diverse Employment Opportunities

Promote diverse job options and entrepreneurial opportunities for persons interested in full-time or part-time employment or desiring to own their own business.

5.1d—Industrial Specializations

Identify, develop and enhance multiple industrial specializations. Improve opportunities for productive employment in key sectors, including, without limitation, those already present in Carson City.

(V&T-SPA) Land Use Policies

V&T SPA—1.1 Development Quality

Protect the scenic quality of the V&T experience with consideration given for the views from the train route as well as the terminal location by developing and adopting specific design standards for commercial development and public-use development within the V&T-SPA to protect the scenic quality of the V&T route.

The change in hours will not impact the scenic quality of the V & T experience.

V&T SPA—1.2 Zoning

Rezone the private lands in Carson City along Highway 50 East from General Industrial to a commercial designation consistent with the Master Plan Land Use Map.

The subject site is located in the General Industrial zoning district. The use has lawfully established. The request is to modify the hours of operation.

V&T SPA—1.3 View Corridors

Identify critical views of the landfill area from V&T route and adjacent commercial areas and mitigate visual impacts by plantings, screening or other methods around the landfill.

This goal is not applicable; due to the fact the use is not located in the area of the landfill.

V&T SPA—1.4 Compatibility with Adjacent Uses

Prohibit new uses on public lands within the V&T-SPA that would conflict with the V&T and related commercial-tourism in the vicinity, such as uses that generate excessive noise, dust or odors, excluding the continued operation of the landfill; and Consider limiting the use of public lands as part of any proposed disposal of the BLM property into Carson City ownership through a federal lands bill.

This goal is not applicable; due to the fact the use is not located on public lands.

V&T SPA—1.5 Drako Way Vicinity Land Use Change

The land use designation of the property in the vicinity of Drako Way, east of the V&T railroad alignment, shall be changed by Carson City from Industrial to Mixed-Use Commercial and/or Mixed-Use Residential upon removal of the old landfill identified on the site or with approved engineering controls in accordance with NDEP standards upon development of the property.

This goal is not applicable; due to the fact the use is not located in the immediate vicinity of Drako Way or east of the V & T railway alignment.

(V&T-SPA) Parks and Open Space Policies

V&T SPA—2.1 Trail Facilities

The Parks and Recreation will continue to work with the V&T Commission and V&T consultants in locating appropriate trail facilities along the Carson River corridor consistent with the V&T operation plans and the Unified Pathways Master Plan.

This goal is not applicable; due to the fact the use is not located along the Carson River corridor.

(V&T-SPA) Cultural and Environmental Resources Policies

V&T SPA—3.1 Carson River Corridor

Encourage continued cleanup and patrol of the Carson River corridor to protect the scenic resource through partnerships with public and private agencies.

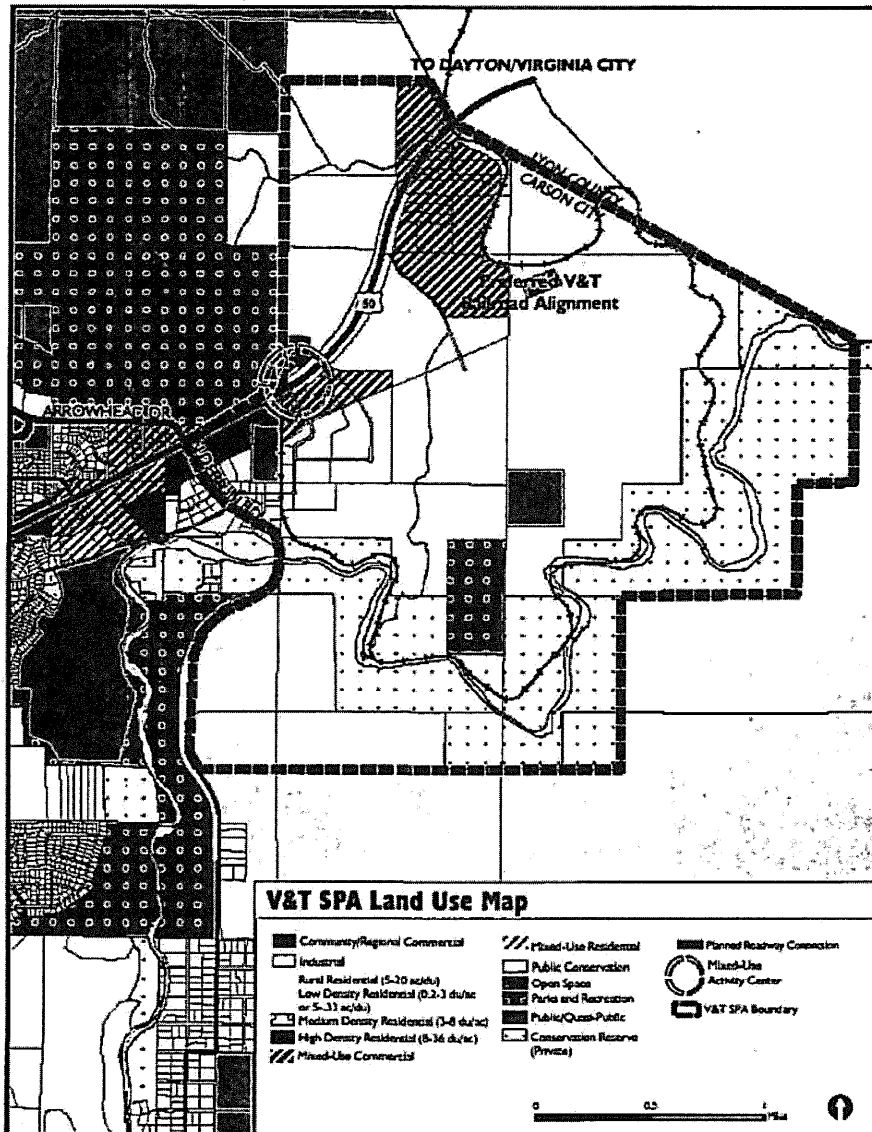
This goal is not applicable; due to the fact the use is not located along the Carson River corridor.

(V&T-SPA) Coordination Policies

V&T SPA—4.1 Coordination

Encourage continued collaboration with Lyon County and Storey County to minimize land use conflicts along the V&T corridor.

The staff has notified Lyon County Planner Rob Pyzel of the request to modify the hours of operation as well as obtained a mailing list from Lyon County of property owners who may be potentially impacted by the change in hours of operation. Sixty eight Lyon County property owners were notified.



2. The proposed use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and will cause no noise, vibrations, fumes, odors, dust, glare or physical activity.

The use creates odors. The impact of the odors are primarily on residents to the east of the facility. NDEP staff has explained that the primary source of the odor is Volatile Organic Compounds (VOC's). NDEP staff advised of a similar problem with an asphalt plant in Fernley. In that case, the operator installed a Regenerative Thermal Oxidizer, and there have been no odor complaints in over two years. This equipment is installed after the bag house. Of note, the applicant does not believe a Regenerative Thermal Oxidizer is effective.

Staff also met with Eric Florio, an Air Quality Specialist with the Business Environmental Program at UNR. He conducted independent research, and advised that

there are odor suppressants that are additives to the mix. Based on his research, the two products that are effective suppressants are Ecosorb and Asphalt Solutions. The applicant has acquired Ecosorb, but has not incorporated into his operations.

Other steps that will potentially address the odor, although to what degree of effectiveness is questionable, are:

- Install a roof over the truck loading chute area.
- Install water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air.
- The vent condenser that has been installed must be maintained to address odors.

The staff finds it is necessary to take proactive steps to address odors. As the applicant has acquired the Ecosorb, and the air quality expert that staff consulted with found it to be an effective odor suppressant based on research, staff would recommend a condition of approval that the applicant utilize the Ecosorb that he has acquired, as well as install and maintain the three bulleted items above. Staff further recommends that the Special Use Permit be scheduled for further review in one year so that the effectiveness of the suppressant can be reviewed. The review of the Special Use Permit shall be subject to the noticing requirements identified in CCMC 18.02.045, with the applicant responsible for paying noticing fees.

Furthermore, with respect to hours of operation, staff has consulted with personnel at the Nevada Department of Transportation relative to the road project on Highway 50 from Stage Coach to Silver Springs. It is anticipated that project will be primarily day work as there is a requirement to keep a lane open. Work on South Carson Street will not occur until 2020, and is also anticipated to be primarily day work. Both projects anticipate occasional night work. Therefore, the staff recommends limiting work outside of the approved hours of operation to only 30 times per year. Specifically, staff recommends modification of the hours of operation to:

Monday through Saturday: 6:00 AM – 6:00 PM (startup of equipment 5:30 AM – 6:00 AM, gates open at 6:00 AM); and

Up to 30 evenings or Sundays in a calendar year, with the provision that the applicant must advise the Community Development Director at least seventy two hours in advance of working an evening or a Sunday.

- 3. The project will have little or no detrimental effect on vehicular or pedestrian traffic.**

The modification to the hours of operation will have little effect on vehicular or pedestrian traffic.

- 4. The project will not overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public improvements.**

The proposed change in hours of operation will not overburden existing public facilities or services.

5. **The project meets the definition and specific standards set forth elsewhere in this Title 18 for such particular use and meets the purpose statement of that district.**

The use has lawfully established. The property is zoned General Industrial, and is consistent with the purpose statement of that district.

18.04.150 General Industrial (GI). The GI District is established to preserve an industrial district for uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

6. **The project will not be detrimental to the public health, safety, convenience and welfare.**

With the recommended conditions of approval, particularly the conditions that address odors and the review in one year, staff finds that the modification to the hours of operation as recommended by the staff will not be detrimental to the public health, safety, convenience and welfare.

7. **The project will not result in material damage or prejudice to other property in the vicinity.**

With the recommended conditions of approval, particularly the conditions that address odors and the review in one year, staff finds that the modification to the hours of operation as recommended by the staff will not be detrimental to the public health, safety, convenience and welfare.

Attachments:

Correspondence from Bryan Wagner
Application (SUP-10-115-2)
Supplemental materials provided by the applicant.

HOPE

887-2278

11/18/19

I HAVE THE ORIGINAL PETITION THAT WAS SIGNED BY THE PEOPLE HERE IN THE CARSON HIGHLANDS AGAINST TWA, THERE IS 7 PAGES INCLUDING THE COVER SHEET,

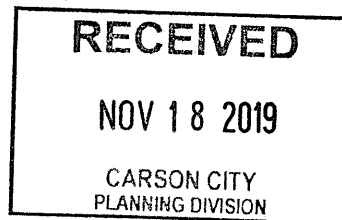
THANK YOU FOR ALL YOUR HELP!

BOB + JUDY LUCAS

775-246-0351

PG 1 OF 7

LATE MATERIAL



PG 2 OF 7

Petition to Return Air Quality and Stop Noxious Fumes

<p>Petition summary and background</p>	<p>Carson Highlands subdivision is petitioning due to noxious fumes infiltrating and settling in the Carson Highlands subdivision area due to asphalt and asphalt product production from Tahoe West Asphalt, Highway 50, Moundhouse, NV 89706.</p> <p>We the residents ask for re-evaluation of EPA regulations and/or the Clean Air Act, in regard to proximity to residents/residences to production of material with potential health issues and offer a solution that returns quality of life/air quality to residents.</p> <p>Petitions will be given to the following for action.</p> <p>Nevada Division of Environmental Protection Carson City Board of Supervisors 901 South Stewart Street, Suite 4001 201 N. Carson Street, Suite 2 Carson City, Nevada 89701 Carson City, NV 89701</p> <p style="text-align: center;">Winner NV Clean Air- Bob Weffer (775) 687-9349</p>
<p>Action petitioned for</p>	<p>I have been a resident of the Carson Highlands for 20+ years as have many of my neighbors as indicated below.</p> <p>We, the undersigned, are concerned citizens who urge our leaders to act now: We are asking for assistance from our elected and paid officials to work with TWA and the residents of Carson Highlands to resolve this important issue.</p>

Printed Name	Signature	Address	Comment/Years Resident	Date
MELANIE HARRIS	<i>Melanie Harris</i>	221 MARIAM WAY	7 yrs	10-18-16
Judy Lucas	<i>Judy Lucas</i>	225 MARIAM WAY	24 yrs	10-18-16
ROBERT LUCAS	<i>Robert Lucas</i>	225 MARIAM WAY	24 YRS	10-18-16
SANDRA MOAD	<i>Sandra Moad</i>	221 MARIAM WAY	3 1/2 yrs	10-18-16
CHRISTINA DIXON	<i>Christina Dixon</i>	233 MARIAM WAY	3 yrs	10-18-16
DAVID WILSON	<i>David Wilson</i>	243 MARIAM WAY	10 years	10-18-16
LINDA WILSON	<i>Linda Wilson</i>	243 MARIAM WAY	16 years	10-18-16

PG 30F7

Printed Name	Signature	Address	Comment/Years Resident	Date
MIKE ZACCARO	<i>[Signature]</i>	245 MIRIAM WAY	4	10-18-16
Mitch Muerk	<i>[Signature]</i>	222 Miriam way	15	10-18-16
RICHARD SMITH	<i>[Signature]</i>	219 Miriam Way	8	10/19/16
Eory Dossin	<i>[Signature]</i>	209 miriam way	7	10/20/16
BETTY GREEN	<i>[Signature]</i>	242 M. R. IR. WAY	6	10/20/16
Bonnie Schrod	<i>[Signature]</i>	2494 Miriam Way	18	10/20/16
William Arel	<i>[Signature]</i>	240 Miriam way	17	10/20/16
Harold Cary	<i>[Signature]</i>	230 Miriam way	3	10/20
Kathy Cary	<i>[Signature]</i>	270 Miriam way	3	10/20
VIRGINIA STEWART	<i>[Signature]</i>	223 Ymiriam way	28	10/20
William Arel	[Signature]			
Richard Davis	<i>[Signature]</i>	215 Miriam Way	12	10/25/16
Jonathan Jones	<i>[Signature]</i>	213 Miriam	30	10/25/16
Dan Rubin	<i>[Signature]</i>	200 Samson Ct	16 yrs	10-25-16
Danny Whiteaway	<i>[Signature]</i>	238 Miriam way	18 years	25 OCT 16
ERRY WHITEWAY	<i>[Signature]</i>	238 Ymiriam way	18 yrs	10/25/16

can work. 5:00-6
 PG 4 OF 7

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Printed Name	Signature	Address	Comment/Years Resident	Date
Susan Cox	<i>Susan Cox</i>	760 Chast Dr. Moundhouse, NV 89706	14 yrs Susan Cox Tahoe West Asphalt Tahoe West Asphalt	10/21/16
JASON CRAM	<i>Jason Cram</i>	760 Chast Dr. Moundhouse	14 yrs	10/21/16
Jim Enloe	<i>Jim Enloe</i>	186 James Ct.	This shit stinks too	10/21/16
Kody Manns	<i>Kody Manns</i>	146 James Ct.	Small, bad	11/22/16
Brian Hammonds	<i>Brian Hammonds</i>	911 Highlands Dr.	19 years	10/22
David Montes	<i>David Montes</i>	911 Highlands Dr.	19 years	10/22
Brian Doherty	<i>Brian Doherty</i>	911 Highlands Dr.	19 years	10/22

PG 50 F 7

Printed Name	Signature	Address	Comment/Years Resident	Date
ELLY KELLER	<i>Elly Keller</i>	399 Traci Ln.	A	10-22-16
Gerardo Gono	<i>Gerardo Gono</i>	381 Traci Ln	4	10-22-16
FRANCOIS ROYER	<i>Francois Royer</i>	383 Traci Ln	26	10-22-16
CHRISTOPHER GONZALEZ	<i>Christopher Gonzalez</i>	385 TRACI LN	16 YR	10-22-16
JORDI CROWDER	<i>JORDI CROWDER</i>	S.A.M.C	SAME	
Carla Fajardo	<i>Carla Fajardo</i>	388 Traci Ln	1985 (Molded)	10-22-16
SEBASTIAN J. ROYER	<i>Sebastian J. Royer</i>	392 TRACI	22 YRS	10-22-16
MARIA F. RAZO	<i>MARIA F. RAZO</i>	391 TRACI LN	4 YRS	10-22-16
Octavio Suarez	<i>Octavio Suarez</i>	391 TRACI LN	4 YR	
Arnelo Verdin	<i>Arnelo Verdin</i>	596 JENNIFER	2 YR	10-22-16
CHARLES GUNNING	<i>CHARLES GUNNING</i>	907 Highways Dr.	16 yrs	10-22-16
FRANCOIS ROYER	<i>FRANCOIS ROYER</i>	904 Highways Dr.	20 yrs	10-22-16
ERIC RODRIGUEZ	<i>ERIC RODRIGUEZ</i>	798 Chari Dr	25	10/22/16
MARIA TACHO	<i>MARIA TACHO</i>	798 Chari Dr.	3	10/22/16
GRISelda Sequedra	<i>GRISelda Sequedra</i>	911 Highways Dr	20 yrs	10-22-16
KARLA ANDERSON	<i>KARLA ANDERSON</i>	291 MIRAJO Way	5 yrs	10/22/16

PG 6 OF 7

Printed Name	Signature	Address	Comment/Years Resident	Date
Sonya Lee		289 Miriam Way	1 yr Nov 7	10-22-16
Keana Drake Pen-Prude		286 Miriam Way	8 yrs health issues	10-22-16
Dario Perez		255 Miriam way	8 yrs Tim Furious	10/23/16
Melina Burke		772 Chan Dr 87m	7 yrs	10-23-16
Bob Gallia		208 Miriam Way	5 yrs	10-23-16
Pelaura welch		208 miriam way	5 yrs	10-23-16
Jacob martin		801 clardi Ln	2 yrs	10-23-16
Dana Luterick		384 Traci LN	28 yrs	10-23-16
Marisa Sandoz		281 Miriam way	22 yrs	10-25-16
1.094U FARRAR		770 CHARL PR M4.1041	26 years	10-25-16
1.094U FARRAR		405 Traci lane mouse	11 yrs	10-27-16
1.094U FARRAR		406 Traci lane mouse	9 years	10/28/16
DAVID JANK		407 TRACI LN	> 1 yr	10/28/16
Martin Sizer		259 Miriam way	20 years	10/28/16
P. A. Tucker		620 Jenni LN	25 years	10/28/16
Melinda Priddy		1025 Senni lane	3 years	10/27/16

PG 7 OF 7

Printed Name	Signature	Address	Comment/Years Resident	Date
Christina Ramirez	[Signature]	307 Pinhurst Ct Denton	Can't drive with wireless 20 yrs	10/27/16
N Talavera	[Signature]	590 Jennie Ln.	26 26 years	11/28/16
Sandy Cowen	[Signature]	782 Chaki Dr	23 yrs	10/28/16
Melissa [Signature]	[Signature]	770 Charli Dr	Can't breathe, head headache 26 yrs eyes burn	10/28/16
Roger Dimarzo	[Signature]	393 Traci Ln	15 yrs	10/28/16
ROSE DIMARZO	[Signature]	393 Traci Ln	15 yrs	10/28/16
Mailla Lopez	[Signature]	710 Charli Dr	20 years	10/30/16
SHANILEY	[Signature]	396 Traci Ln	8 yrs	10/31/10