



Community Development

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Adrian P. Freund, FAICP, Community Development Director
Nathan Edwards, Legal Counsel



Washoe County Planning Commission

Christy Magers, Chair
Dian A. VanderWell, Vice Chair
Neal Cobb

Roger M. Edwards
Roy H. Hibdon
Keith Lockard
William Weber

WASHOE COUNTY PLANNING COMMISSION MINUTES

November 3, 2009

The Washoe County Planning Commission met in regular session on Tuesday, November 3, 2009, in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

DETERMINATION OF QUORUM

Chair VanderWell called the meeting to order at 6:30 p.m. The following Commissioners and staff were present:

Commissioners present: Dian A. VanderWell, Chair
Neal Cobb, Vice Chair
Roger M. Edwards
William Weber
Vaughn Hartung
D.J. Whittemore

Commissioners absent: Roy Hibdon

Staff present: Adrian Freund, Director, Community Development
Kimberly H. Robinson, Planning Manager, Community Development
Trevor Lloyd, Senior Planner, Community Development
Kimble Corbridge, Assistant Director, Engineering
Nathan Edwards, Deputy District Attorney
Dawn Spinola, Recording Secretary, Community Development

PLEDGE OF ALLEGIANCE

Commissioner Hartung led the pledge to the flag.

Ms. Robinson requested Director's Items be presented as Item One under Project Review.

APPROVAL OF AGENDA

In accordance with the Open Meeting Law, Commissioner Weber moved to approve the agenda for the November 3, 2009, meeting as amended. Commissioner Cobb seconded the motion, which passed unanimously.

APPROVAL OF MINUTES

Commissioner Hartung moved to approve the minutes of October 6, 2009 as written. Commissioner Weber seconded the motion which carried unanimously.

Ms. Robinson stated she had incorrectly requested Director's Items be presented as Item One under Project Review. The intent had been to move Chair and Commission Items and leave Director's Items where they were.

PUBLIC COMMENT

Mr. Freund welcomed D.J. Whittemore to the Planning Commission (PC). He went on to discuss the items that will be heard at the joint meeting of the PC and Board of County Commissioners on November 10, 2009.

Chair VanderWell closed the public comment portion of the hearing.

Ms. Robinson requested re-opening approval of the agenda to recognize her revised request. Chair VanderWell clarified that Chair and Commission Items would become Item One. Commissioner Hartung moved to approve the amended agenda for the November 3, 2009, meeting. Commissioner Whittemore seconded the motion, which passed unanimously.

CONSENT ITEMS

None.

AGENDA ITEM 1

CHAIR AND COMMISSION ITEMS

- a. Report on Previous Planning Commission Items

Ms. Robinson requested the Commissioners use their county-provided e-mail addresses for PC-related business only and that all PC-related e-mails go to that address.

- b. State Code of Ethics Discussion

Deputy District Attorney (DDA) Edwards initiated a discussion regarding new provisions under the Nevada Revised Statutes (NRS) 281(a), State Ethics Law. There is a preference expressed in state law for public officials on governing bodies to participate and make decisions and not to recuse or abstain or avoid having to make decisions because of their interest in the community, business interests, where their home is located or who they associate with. Abstention is rarely required.

The new laws also express a preference for disclosure. Rather than requiring public officials to abstain, the law is designed to encourage disclosures, even if they are overly cautious in some situations. The public should be aware of what interest the official has with regard to a particular item. The public can then make a determination as to whether or not they are satisfied with the process and if they feel there is bias or not.

He went on to explain the three types of things governed by the statute: 1) acceptance of a gift or loan on a particular matter, 2) if the official has a pecuniary interest, or 3) if the official has a commitment in a private capacity to the interests of others. If any of the above are true, the official must make a disclosure to the chair at the meeting that gives enough information to put the public on notice as to the specifics. Once that is done, the disclosure obligation has been met.

The next question is whether or not the official should abstain. That only occurs if the official's judgment would be materially affected by any of the three items noted. Abstention is a higher standard.

DDA Edwards emphasized he would recommend the members of the committee over disclose rather than under disclose and that puts it on record. Once the disclosure is made, if the official has a question about whether they should abstain, they should ask Counsel for a discussion on the record. The final decision will be made by the public official.

Commissioner Hartung stated he had engaged in business transactions with the attorney for the applicant of one of the items to be heard at this meeting. DDA Edwards recommended disclosing this information when that item is heard and they could discuss the necessity of a possible abstention issue further at that time.

Commissioner Weber noted it was important to disclose for an item in every occurrence it is being heard regardless of which board or meeting it is.

DDA Edwards stated he was in the process of arranging a presentation by members of the Ethics Commission staff to be held at a future Planning Commission meeting.

PROJECT REVIEW ITEMS

AGENDA ITEM 2

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SW09-001 (TRACY AGGREGATE PROJECT) – To expand an existing aggregate mining operation to allow the additional extraction of approximately 83 million tons of aggregate material from 424 acres of a 640-acre federally owned property as authorized in Section 110.810 of the Washoe County Development Code. This material will be processed at the existing processing facility authorized under the previously approved special use permit case number SW03-001. The project is located approximately 15 miles east of Sparks, north of I-80 at Exit 32, USA Parkway. The two parcels totaling ±1,043 acres are designated Industrial (I), General Rural (GR) and Open Space (OS) in the Truckee Canyon Area Plan and are situated in a portion of Section 24, T18N, R19E, MDM, Washoe County, Nevada. The properties are located in the East Truckee Canyon Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APNs: 084-030-19 and 084-120-28).

Chair VanderWell opened the public hearing and, at DDA Edwards' recommendation, called for disclosures.

Commissioner Hartung stated the applicant's counsel and family were his clients. The business they were engaged in had nothing to do with aggregate or mining so he didn't know if he should abstain. DDA Edwards asked clarifying questions, including whether or not they are

continuing, or might in the future continue to do business together. Commissioner Hartung stated that it was always possible. DDA Edwards recommended abstention, clarifying the decision was ultimately up to Commissioner Hartung.

Commissioner Hartung noted his company does business with virtually every law firm in town. If he needed to abstain based on each interaction, he believed he would be abstaining from nearly everything. He did not feel his thought process would be inhibited by the fact he knew the applicant's attorney, so did not see a conflict and preferred not to abstain.

Commissioner Weber confirmed with Counsel the vote on this item required a simple rather than a super majority.

Chair VanderWell verified with Commissioner Hartung the business relationship was not going to inhibit his decision and thanked him for the disclosure. She then checked with DDA Edwards to be certain Commissioner Hartung's response was acceptable and DDA Edwards restated it was the Commissioner's decision and the disclosure had been properly made.

Mr. Lloyd reviewed the staff report dated October 19, 2009. He discussed changes to Conditions 17 and 21b, as well as an addition from the Fire Department which had become Condition 25. Condition 17 addressed revegetation and 21b clarified bonding requirements. The Commissioners had received copies in advance of the item being presented. Mr. Lloyd also noted staff had concerns regarding alteration of the ridgelines and the applicant had proposed solutions to address them.

Mr. Lloyd went on to note the applicants had requested the removal of Condition 20 as it was duplicative of Condition 7, and also to reword Condition 7 regarding protection of visual qualities.

Commissioner Hartung requested clarification regarding staff's reluctance to approve a seven-year commencement date. Mr. Lloyd clarified the recommended time for commencement was to be three years.

Commissioner Weber asked why fire hydrants were required at a gravel pit. Mr. Lloyd noted it was a Fire Department condition and clarified it was up to them to determine if other fire suppression methods suggested by the applicant would be acceptable.

Applicant's Representatives Michael Pagni and Chet Van Dellen provided a presentation of the project, pointing out visual impact mitigation efforts and going over the changes to the conditions. Mr. Pagni pointed out the project was an expansion of an existing use approved for the area and subject to federal regulation. He stated the water rights requirements for the project would not change and described the rights already owned and in use for the existing project.

Mr. Van Dellen stated the current operation had always been in full compliance with fire codes. He noted the new Fire Department Condition 25 required hydrants for any new buildings and none were proposed.

Chair VanderWell closed the public hearing.

Commissioner Edwards asked if the nearby homeowners would be visually impacted. Mr. Van Dellen stated the south side of the river is lower than the highway and from the highway the existing topography blocks the majority of the visibility of the project except for the ridgeline. At a lower elevation, the visibility barrier would still be there until the very end of the project, when the ridgeline is scheduled to be altered.

Commissioner Hartung asked if the water were surface or groundwater and how it was to be reclaimed. Mr. Van Dellen replied it was all groundwater and would be recycled, with the exception of what would be used for dust control, and they would lose approximately 3 acre feet per year through evaporation. Commissioner Hartung then asked how many acres would be disturbed at any given time. Mr. Van Dellen stated it would be no more than 30, that area's use to be immediately followed by reclamation.

Commissioner Hartung asked about whether explosives would be used, and if so, how they would be housed and protected. Mr. Van Dellen explained most areas would not require use of explosives, but any blasting would be contracted out and nothing would be stored on site.

Commissioner Hartung asked if an Environmental Impact Statement (EIS) had been compiled and what the process would be if any archeological sites were uncovered. Mr. Van Dellen reiterated the project is on federal land and therefore has been undergoing the EIS process for the last year. Federal regulations would govern their actions should they uncover a potentially historical site.

Commissioner Hartung then asked how they intended to mitigate the impact on wildlife. Mr. Pagni clarified the applicant was happy to do so and that would also be governed by federal regulations.

Commissioner Weber further verified with Mr. Van Dellen that any explosives would be stored off site and be secure. He stated his intent to support the application.

Commissioner Hartung moved to approve Special Use Permit Case No. SW09-001 as amended. The motion was seconded by Commissioner Edwards.

DDA Edwards suggested the motion should include all findings as stated in the staff report. Commissioner Hartung stated his motion included all special findings and considerations addressed in the staff report. Commissioner Edwards provided his consent to the addendum to the motion.

Mr. Lloyd suggested the conditions revised by the applicant should also be mentioned. Commissioner Hartung stated his motion included those as well and Chair VanderWell verified with Commissioner Edwards that he was still in agreement.

The motion passed unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the Truckee Canyon Area Plan;

2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for the type of development and for the intensity of the development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Special Review Considerations. That the Planning Commission considered the Special Review Considerations as stated in Section 332.20(a)–(j) of the Development Code, listed below, and found that adequate provisions have been made to comply with these considerations:
 - (a) Conservation of topsoil;
 - (b) Protection of surface and subsurface water;
 - (c) Conservation of natural vegetation, wildlife habitats, and fisheries;
 - (d) Control of erosion;
 - (e) Control of drainage and sedimentation;
 - (f) Provision of visual and noise buffering;
 - (g) Accommodation of heavy traffic on roadways;
 - (h) Provision of restoration and/or reuse of the site;
 - (i) Provision of a bonding program commensurate with the total costs of requirements imposed; and
 - (j) Preservation of the recreation opportunities, air quality, archaeological resources, character of the area and other conditions as necessary.
6. That the proposed development is not unduly detrimental to surrounding properties, land uses and the environment in general;
7. That the proposed development will not unduly block scenic views or degrade any surrounding scenic resources;
8. That the proposed development will reclaim the site and all affected areas at the conclusion of the operation;
9. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.
10. Reasoned Consideration: That the Planning Commissioners gave reasoned consideration to the information contained within the staff report and information received during the meeting.

PLANNING ITEMS

AGENDA ITEM 3

PUBLIC HEARING: DEVELOPMENT CODE AMENDMENT CASE NUMBER DCA08-004 (STORM DRAINAGE STANDARDS) - To amend Washoe County Code, Chapter 110, Development Code, Article 420, Storm Drainage Standards in order to encourage low impact development (LID) options and revise the storm drainage provisions to be consistent with updated standard manuals, including the Truckee Meadows Regional Drainage Manual.

Mr. Corbridge reviewed the staff report dated October 9, 2009.

Chair VanderWell opened the public hearing.

Seeing no one wishing to speak, Chair VanderWell closed the public hearing.

Commissioner Whittemore moved to approve Development Code Amendment Case No. DCA08-004. The motion was seconded by Commissioner Weber and passed unanimously.

The motion was based on the following findings:

1. Consistency with Comprehensive Plan. The proposed Development Code amendments are in substantial compliance with the policies and action programs of the Washoe County Comprehensive Plan.
2. Promotes the Purpose of the Development Code. The proposed Development Code amendments will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code.
3. Response to Changed Conditions. The proposed Development Code amendments respond to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners.
4. No Adverse Affects. The proposed Development Code amendments will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Comprehensive Plan.

OTHER ITEMS

None

DIRECTOR'S ITEMS

None

ADJOURNMENT

Since there was no further business to come before the Planning Commission, the meeting adjourned at 7:30 p.m.

Respectfully submitted,

Dawn Spinola, Recording Secretary

Approved by Commission in session on December 1, 2009.

Adrian P. Freund, FAICP
Secretary to the Planning Commission