



Community Development

"Dedicated to Excellence in Public Service"

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



Washoe County Planning Commission

Dian A. VanderWell, Chair
Neal Cobb, Vice Chair
William Weber

Roger M. Edwards
Roy H. Hibdon
Vaughn Hartung
D.J. Whittemore

WASHOE COUNTY PLANNING COMMISSION MINUTES

September 7, 2010

The Washoe County Planning Commission met in regular session on Tuesday, September 7, 2010, 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
Roy Hibdon
William Weber
Vaughn Hartung
D.J. Whittemore

Commissioners absent: None

Staff present: Adrian Freund, Director, Community Development
Kimberly H. Robinson, Planning Manager, Community Development
Roger Pelham, Senior Planner, Community Development
Don Morehouse, Planner, Community Development
Nathan Edwards, Deputy District Attorney
Dawn Spinola, Recording Secretary, Community Development

PLEDGE OF ALLEGIANCE

Commissioner Weber led the pledge to the flag.

ETHICS LAW ANNOUNCEMENT

Chair VanderWell recited the Ethics Law standards.

APPEAL LANGUAGE

Ms. Robinson recited the appeal procedure for items heard before the Planning Commission.

APPROVAL OF AGENDA

In accordance with the Open Meeting Law, Commissioner Hartung moved to approve the agenda for the September 7, 2010, meeting. Commissioner Hibdon seconded the motion, which passed unanimously.

APPROVAL OF MINUTES

Commissioner Hibdon moved to approve the minutes for the August 3, 2010 Planning Commission meeting as written. Commissioner Hartung seconded the motion which passed 6-0. Chair VanderWell recused herself from the vote.

PUBLIC COMMENTS

None

CONSENT ITEMS

RESOLUTION ACCEPTING STREET (WILBUCK ROAD) – Consider and possibly adopt NRS 278.390 resolution accepting streets or roads previously offered for dedication to the county in connection with Irrevocable Offer of Dedication Document #3902746, Recorded July 19, 2010, adding 0.06 miles of new street to the Washoe County Street System to provide public access to the parcels located south of APN 050-170-40.

Commissioner Hibdon moved to approve the Consent Items. The motion was seconded by Commissioner Cobb and passed unanimously.

PROJECT REVIEW ITEMS:

AGENDA ITEM 1

PUBLIC HEARING: Abandonment Case Number AB10-003 (Reynolds) – To abandon portions of 40-foot government tract patent parcel access and public utility easements on the perimeter of all of the subject parcels, while retaining 20-foot easements to allow potential access to adjacent properties, as authorized in Article 806 of the Washoe County Development Code. The project is located approximately 300 feet east of the intersection of Thompson Lane and Sierra Country Road and is addressed as 4800, 4840 and 4870 Sierra Country Road. The ±5-acre project site is designated Low Density Suburban (LDS) in the Forest Area Plan, and is situated in a portion of Section 34, T18N, R19E, MDM, Washoe County, Nevada. The property is located in the Galena/Steamboat Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APNs: 049-090-14, 049-090-15 and 049-090-24)

Chair VanderWell opened the public hearing.

Mr. Pelham reviewed the staff report dated August 20, 2010. He noted the Abandonment had been approved two years before but had expired due to non action.

No members of the public wished to speak.

Chair VanderWell closed the public hearing.

Commissioner Hartung moved to approve Abandonment Case No. AB10-003. The motion was seconded by Commissioner Cobb and passed unanimously.

The motion was based on the following findings:

1. Comprehensive Plan. The abandonment or vacation is consistent with the policies, action programs, standards and maps of the Comprehensive Plan and the Forest Area Plan; and
2. No Detriment. The abandonment or vacation does not result in a material injury to the public; and
3. Existing Easements. Existing public utility easements in the area to be abandoned or vacated can be reasonably relocated to provide similar or enhanced service; and
4. Reasoned Consideration. That the Planning Commissioners gave reasoned consideration to the information contained within the staff report and information received during the meeting.

AGENDA ITEM 2

PUBLIC HEARING: Abandonment Case Number AB10-004 (Geiger Grade Warehouse) – To abandon approximately 7,889 square feet of an access easement along State Route 341. The subject parcel is located on the southeast corner of State Route 341 (Geiger Grade) and Kivett Lane. The ±1.78 parcel is designated General Commercial (GC) and is in the Southeast Truckee Meadows Area Plan. The subject parcel is located within the Southeast Truckee Meadows Citizen Advisory Board boundary, Washoe County Commission District No. 2 and the Truckee Meadows Service Area, and is situated in a portion of Section 27, T18N, R20E, MDM. (APN: 017-055-31)

Chair VanderWell opened the public hearing.

Mr. Morehouse reviewed the staff report dated August 30, 2010.

Commissioner Hartung asked if approval of the Abandonment would change the setbacks and Mr. Morehouse replied it would not. He explained it would allow the applicant to upgrade the parking and landscaping and facilitate an expansion of the existing building.

Commissioner Hartung asked what landscaping standards would be applied and Mr. Morehouse replied the applicant would be required to cover 20 percent of the parcel. Commissioner Hartung asked if there was a way the applicant might install xeriscape instead of greenscape and Mr. Morehouse noted the applicant was planning to submit an application for Director's Modification of Standards to request more drought-tolerant landscaping.

Commissioner Weber noted the construction of the office had already commenced. Mr. Morehouse explained they had already received a building permit for that portion of their plans.

No members of the public wished to speak.

Chair VanderWell closed the public hearing.

Chair VanderWell opined the two Abandonment staff reports had been phenomenal and thanked staff for the good work.

Commissioner Whitemore moved to approve Abandonment Case No. AB10-004. The motion was seconded by Commissioner Edwards and passed unanimously.

The motion was based on the following findings:

1. Comprehensive Plan. The abandonment is consistent with the policies, action programs, standards and maps of the Comprehensive Plan and the Southeast Truckee Meadows Area Plan; and
2. No Detriment. The abandonment does not result in a material injury to the public; and
3. Existing Easements. Existing public utility easements in the area to be abandoned or vacated can be reasonably relocated to provide similar or enhanced service; and
4. 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

PUBLIC HEARING: Development Code Amendment Case Number DCA09-001 (Article 416) – To amend Washoe County Code, Chapter 110, Development Code, Article 416, Flood Hazards, in order to adopt guidelines for the mitigation of lost floodplain storage and maintenance of adequate storage in the Critical Flood Storage Zone according to the procedure adopted by the Truckee River Flood Project Coordinating Committee and to enact that process of determining appropriate mitigation, if any, including specific amendments to 110.416.57 “Standards for All Development in Critical Flood Storage Zones” relating to the elevation and location of required mitigation for development In the Critical Flood Storage Zone and other necessary amendments to reflect updated information and procedures on the management of flood hazards.

Mr. Freund reviewed the staff report dated September 7, 2010. He noted the amendments were primarily focused on property within Critical Flood Storage Zone 1 (CFSZ1) in the Hidden Meadows area. The amendment was initiated by the Planning Commission in early 2009 and work had begun prior to that initiation.

Mr. Freund explained the Development Code Amendment (DCA) was required in order to implement a 2008 Resolution of the Flood Project Coordinating Committee (FPCC), which is a multi-jurisdictional board which oversees the Truckee River Flood Project.

Mr. Freund noted Article 416 and the Critical Flood Zone provisions had been in place since 2005, and since that time FPCC has prohibited any activity that decreases flood storage in CFSZ1. For the past five years the ordinance has also required compensatory storage in a one-to-one ratio on the project site or in a hydrologically-connected basin.

Mr. Freund reiterated the reason for the DCA request was the 2008 Resolution of the Truckee River FPCC asking all jurisdictions to adopt regulations for the critical zone. He explained the fundamental difference was that there was now a flood storage mitigation model which allows a person to put storage calculations for a project into the model and assess whether there is any rise in water surface elevation in the CFSZ.

Mr. Freund explained that Community Development had worked with Public Works and FPCC staff to develop the wording for the amendment. The amendment applies to the unincorporated land in CFSZ1, which is equivalent to approximately 10 percent of all of the area in the project. He noted it was not an area that has the most significant impact. He pointed out there was very little available land within Washoe County's jurisdiction and very limited likelihood of major projects.

A parallel ordinance was adopted by the Reno Planning Commission on September 1, 2010. Certain parcels are excepted in Article 416.57 and may be candidates for the home elevation project now under way by the Truckee River Flood Project. The home elevation project was determined to be the least expensive option, raising residences in danger of being flooded.

Mr. Freund explained an all-CAB (Citizen Advisory Board) meeting had been held on April 21, 2010 and no comments were received. He pointed out the project was important to the citizens of Washoe County living in the area of CFSZ1. He reiterated the key amendments proposed for the Development Code were that projects that displaced storage were limited to pre-development peak flows and what the Flood Project has called "no adverse impact."

Redevelopment peak flow is the flow rate from a given area which must be attenuated to the pre-project conditions. One-to-one mitigation storage is required, as it was in the previous code. The difference is that storage must be in the same storage area and surface elevation band as the volume displaced. The idea is to show no adverse impact through application of the mitigation model.

Mr. Freund noted additional key amendments included that mitigation must occur at the same time as or prior to a reduction of flood storage volume. Additionally, a significant number of parcels in Hidden Valley are excepted from certain requirements of the ordinance and may be eligible for the home elevation program.

Mr. Freund noted that over the past week, the development community had expressed concerns regarding the definition of "no adverse impact." He pointed out that was a term adopted by the Flood project and was a common term in environmental matters. There had been a desire for a more quantifiable definition than the one currently in the draft ordinance.

After meeting with representatives of the development community it was agreed the issue should be discussed with the City of Reno. That meeting had occurred, and the City had arrived at a definition of "no adverse impact" that Mr. Freund offered to the Planning Commission for their consideration to use in the ordinance. The description read as follows: "Adverse Impact. As determined by the application and output of the Truckee River Flood Project Mitigation Model(s), water surface elevation in the critical flood Zone 1 within the 1997 water surface elevation as determined by the Elevation Maps is not to be raised." Mr. Freund noted issues with the sensitivity of the model and most of the small projects that would be seen in the county would not have a negative impact upon surface elevation. The City of Reno

description provides a more quantifiable explanation than the description provided in the draft ordinance.

Mr. Freund noted there had been requests for a continuation so that all the jurisdictions could be sure they are paralleling each other. There is also some concern regarding the flood project transitioning into a joint powers authority. He reiterated the amendment had been in process for over a year and in discussion prior to that time.

Chair VanderWell opened the public hearing.

Commissioner Hartung asked if even having a definition of “no adverse impact” still put the county in a liable situation. Mr. Freund explained the attempt with “no adverse impact” was to assure as best as possible that the investments that will be made in the flood project will be protected as time goes forward. Part of the relief being offered is the Home Elevation project which will give numerous properties relief from being subject to inundation. He reiterated “no adverse impact” was a phrase coined by the flood project, was a fairly common term around the country and in the opinion of the flood project does not subject any given jurisdiction to liability.

Deputy District Attorney (DDA) Edwards stated it was of course possible that legal liability could ensue from actions taken by agencies or boards of the county, however, legally speaking, he didn't see it as being any more likely that there would be resulting liability for passage of the proposed ordinance as with any other action the Board would take, such as approving a special use permit. He noted that everything the county does carries with it some possibility there may be damage or injury resulting later that someone may attempt to assert is connected with the action that was taken by the county.

DDA Edwards went on to explain it is speculative and somewhat remote to try and guess at how that might come into being. He stated that when the Board was considering the flood storage ratios and the mitigation methods, they should keep in mind that, generally speaking, the county has many different layers of immunity for actions that are brought against it. He noted he had written extensively about the mitigation issues as the attorney for the flood project and reiterated work has been underway for a long time. He concluded by stating that in his opinion he did not feel the liability would be less or greater than any other normal action they would take as a Planning Commission.

Commissioner Edwards noted a number of undeveloped vacant single-family lots on the map and asked why they would be exempt from mitigation. He opined this would be the opportunity to make those lots subject to increased mitigation measures. Mr. Freund pointed out that a number of the parcels were pre-existing so therefore had some status as non-conforming, pre-existing. He noted the area immediately surrounding those parcels were already developed.

Commissioner Edwards asked why the 1997 flood levels were being used as a standard rather than a higher level. Mr. Freund deferred the question to Paul Urban, Project Manager for the Truckee River Flood Project, and explained the 1997 year flood levels represented a 117-year flood event.

Mike Dillon from the Builder's Association of Northern Nevada (BANN) requested postponement of the item. He noted a meeting was scheduled for the following Thursday at the Development Services Advisory Committee (DSAC). These meetings are held so that the

development community is given an opportunity to give input, typically before an item is heard by a decision-making body.

Mr. Dillon opined the proposed definition of “no adverse impact” that Mr. Freund was proposing was superior to that provided in the current ordinance but several stakeholders still had concerns about it. He stated he hoped that all involved parties could come to a unilateral agreement regarding the verbiage of the definition.

Chair VanderWell closed the public hearing.

Commissioner Whitemore asked Mr. Urban why vacant lots were being exempted and expressed concern that they were considering a 117-year flood ordinance even though it only happened 13 years ago, especially with the uncertainty of climate change, it would seem prudent that new projects should at least be held to a standard as high as what was seen in the very recent past.

Mr. Urban replied regarding the exceptions for the vacant parcels, the resolution by the flood project was just to direct the entities to make sure that there was no loss of flood storage. His understanding of what Mr. Freund was discussing was that some parcels, even though they may not be developed, have certain development rights attached to them and that is why they would need to be exempted the same as a parcel that had a building on it. Development rights are beyond the purview of the flood project.

Mr. Urban went on to say that, with regards to the 117-year flood even, they have been working on a feasibility study with the (Army) Corps of Engineers (COE) since 1998. On a local perspective, studies show that the most effective and efficient level of protection is the 1997 storm. Storms larger than that are more difficult to manage due to the fact the water goes everywhere. The facilities to be built are still in the feasibility stage and will be going to Congress for authorization. The design of the facilities will be built on the 117-year event and therefore all of the storage for that event needs to be available. Storage above that event does not serve a purpose because it is beyond the limits of the flood project.

Mr. Urban agreed there was some question as to whether there should be a level of protection of 117 or 150. He stated that, generally speaking, it was desirable to have the most protection possible. They were finding that the most economically feasible option was the 117 (year plan).

Commissioner Whitemore asked if it was a matter of economics that the 117-year model was chosen because he opined the entire community was burdened and more damage done by the 1997 event because the standards were not high enough. Mr. Urban replied that since they were working with the COE and the federal government, it was a requirement that they show the benefits generated by the project were equal to or greater than the cost. At the 117-year level of protection, more benefits were provided than costs incurred.

Commissioner Edwards asked if the 117-year event was the same as the 1997 flood. Mr. Urban replied hydrologic studies confirmed that it was. The 1997 flood changed the statistics, so running test prior to 1997 would have yielded different results than after 1997.

Commissioner Edwards pointed out that, due to seismic regulations, certain types of soil required more substantiation prior to construction, regardless of whether or not the lot was

vacant at the time. He asked why the same types of standards were not being utilized for the flood project. Mr. Urban reiterated the flood project wanted to be sure no storage was lost. He was not aware of what development rights might cause a property to be exempted.

Commissioner VanderWell noted the discussion was bringing up questions and asked if the item was time-sensitive, or could it be continued to allow the Board's questions to be answered and to request research and clarification.

Mr. Freund noted it had been over two years since the FPCC resolution and therefore they were trying to move it forward. He pointed out the regulations had been in place for five years and that Community Development would have to administer the regulation in the same fashion as the old code, with a one-to-one mitigation ratio.

Mr. Freund stated Community Development was open to a continuance and thanked BANN for their work with all of the jurisdictions. He offered a clarification on the accepted parcels, being that all new construction would have the elevation of the lowest finished floor not lower than the 117-year storm event surface elevation level. Also, all new structures on the vacant parcels will have to be constructed on piers or vented stem walls that allow flood waters to rise in the crawl space. He pointed out that they are only exempt to the point where they do have to meet the new construction standards. He requested that if the Commission decided on a continuance that it be set for a date time certain so public noticing costs could be avoided.

Chair VanderWell pointed out this was the first time the item had been presented to the Planning Commission (PC); there had been no reports or information for them to study in advance. Mr. Freund acknowledged it was new subject matter for the PC, but reiterated there had been extensive conversations with the Flood Project staff and the other involved jurisdictions.

Commissioner Cobb opined there was no way for any municipality to guarantee "no adverse impact" and suggested the term be altered so it suggested there might be a limit to the impacts as opposed to no impacts.

Commissioner Hartung asked Mr. Urban, if they were to change the standards to a 150-year model, how would that affect the project in terms of size and monetarily. Mr. Urban replied the 117-year event was a break point. If they changed the amount of water to be stored it would affect another approximately 650 houses, protection for which would be in the hundreds of millions of dollars.

Commissioner Weber stated he would support a continuation as he would like to have input from BANN.

Commissioner Hibdon opined there was no need for a continuance as years of work had been completed on the project. He stated he had been personally involved in the hydrology of the valley for 35 years and the wording of "no adverse impact" was not a problem as the terminology was very widely used.

Commissioner Hibdon moved to approve Development Code Amendment Case No. DCA09-001. The motion was seconded by Commissioner Edwards.

DDA Edwards pointed out the definition of “no adverse impact” was different than the finding of “no adverse impact” as required to pass a Development Code Amendment.

Commissioner Hibdon amended his motion, noting the description of “no adverse impact” as adopted by the City of Reno and presented at the meeting was not one of the findings for approval, but that it was being incorporated into the approval. Commissioner Edwards seconded the amended motion.

Commissioner Hartung asked why this was suddenly becoming an issue to BANN and was not sure if a delay would be effective or necessary.

Mr. Dillon stated he had been with BANN for over 6 years and had been heavily involved with the project as the Government Affairs Director. It is an important topic for the group and he noted many hours of meetings that he had attended to discuss it. He reiterated his request for more time to come to a consensus with the jurisdictions regarding the definition of “no adverse impact.”

Commissioner Whittemore opined BANN’s input was important and a delay would not cause a problem.

Commissioner Weber pointed out it was common for parties who objected to a project to ask the Commission for more time. He noted BANN is a reputable organization representing a large group and he also wanted to hear what they had to say. He agreed it was not a time-sensitive issue and it was not costing anyone any money to continue the item.

Commissioner Hibdon reiterated his opinion that it did not need to be continued, sufficient time and effort had been spent on the project and it was not costing anyone any money to approve the item either.

Chair VanderWell explained she had recommended the continuance so that the rest of the Planning Commissioners could have an opportunity to research the issue and get their questions answered.

Commissioner Edwards suggested that although there was not a consensus about the definition of “no adverse impact,” the item could proceed and the definition clarified at a later date.

Commissioner Cobb opined 60 days would allow BANN and the Board to get their questions answered and in that time the Commissioners would be able to make their decision.

The motion failed by a vote of 2 to 5. (Commissioners VanderWell, Cobb, Weber, Hartung and Whittemore opposed.)

Commissioner Weber moved to continue the item to 60 days or less, at the discretion of the Director of Community Development for further study. The motion was seconded by Commissioner Cobb.

Ms. Robinson pointed out a meeting to be held in 60 days was also Election Day, and there would be an item on the October agenda for vote regarding whether or not the

Commissioners would prefer to change that meeting date. Therefore, setting the item to be heard in 60 days caused a challenge. She suggested it could be changed to 70 or 30 days.

Commissioner Weber modified his motion to 70 days but reiterated that he had stated it was also at the discretion of the director, so he could have it tomorrow if he was satisfied he had all of the information from Mr. Dillon. Commissioner Cobb agreed with the amended motion.

Mr. Freund noted he would appreciate Counsel weighing in regarding adding wording clarifying the item would be discussed during a regularly scheduled meeting. He agreed that if consensus was reached it would be beneficial for the item to be heard sooner.

DDA Edwards suggested the motion state the item was being continued to the November 2010 Planning Commission meeting, since the exact date of the meeting was currently undetermined.

Commissioner Weber amended his motion to continue the item to a time and date certain on or before the November meeting or at the discretion of Director Freund. Commissioner Cobb again supported the amendment.

The motion passed by a vote of 5 to 2. (Commissioners Hibdon and Edwards opposed.)

CHAIR AND COMMISSION ITEMS

Ms. Robinson told the Commissioners that the Two-Map project would be going to the Regional Planning Commission for the conformance hearing on September 8.

DIRECTOR'S ITEMS

None

ADJOURNMENT

Since there was no further business to come before the Planning Commission, the meeting adjourned at 7:39 p.m.

Respectfully submitted,

Dawn Spinola, Recording Secretary

Approved by Commission in session on October 5, 2010.

Adrian P. Freund, FAICP
Secretary to the Planning Commission