

MINUTES OF THE CHURCHILL COUNTY PLANNING COMMISSION

155 N. Taylor St., Fallon, NV 89406

April 10, 2024

1. Call to Order:

The regular meeting of the Planning Commission was called to order at 7:00 p.m. on April 10, 2024 by Chair Blakey.

Present: Eric Blakey, Chair; Scott Nelson, Vice Chair; Zack Bunyard, Member; Jeff Goings, Member; Mark Hyde, Member; and Paul Picotte, Member.

Absent: Deanna Diehl, Member.

Staff Present:

Chris Spross, Assistant County Manager
Dean Patterson, Senior Planner
Savannah Dukes, Planning Technician
Loreli LeBaron, Code Compliance Official
Diane Moyle, Administrative Assistant

Civil D.A. Staff Present:

Joe Sanford, Deputy District Attorney

2. Pledge of Allegiance:

The Pledge of Allegiance was recited by the commission and public.

3. Public Comment:

There were none.

4. Verification of the Posting of the Agenda:

It was verified by Diane Moyle, Administrative Assistant, that the agenda for this meeting was posted on April 4, 2024, between 8:30 a.m. and 5:00 p.m., at all of the locations listed on the agenda, in accordance with NRS 241 and the Churchill County Code.

5. Consideration and possible action re: Approval of Agenda as submitted or revised:

Chair Blakey asked for any changes to the agenda. Joseph Sanford, Deputy District Attorney-Civil, informed the public that written correspondence was received to request postponement for Items B and C under New Business. These items will not be on the agenda at this meeting.

Member Hyde moved to approve the agenda as revised. Member Nelson seconded the motion which carried by unanimous vote (4-0).

6. Verification of notification of all landowners in accordance with NRS and the Churchill County Consolidated Development Code:

Chair Blakey verified with the Administrative Assistant that notification was sent to all landowners in accordance with NRS and the Churchill County Code.

7. Consideration and possible action re: Approval of Minutes of the meeting held on:

A. March 13, 2024 Public Hearing

Member Goings moved to approve the March 13, 2024 minutes as written.

Member Nelson seconded the motion and the decision carried by unanimous vote (4-0).

8. Old Business

- A. Consideration and possible action re: Renewal of a temporary use permit for temporary quarters during home construction granted to Gary Sinclair for property located at 1015 Dean Lane, Assessor's Parcel Number 008-532-40, in the E-1 zoning district. Origination date 3/11/2020. The applicant resides in an RV on the property during construction of the primary residence. *This item was tabled at the March 13, 2024 meeting.*

Gary Sinclair, 1015 Dean Lane, was available to speak regarding this application.

Dean Patterson, Senior Planner, stated that this is an application for renewal of the temporary use permit. Mr. Sinclair first submitted the request in 2020, so this is a project that has been going on for a few years. His most recent renewal letter said that there have been medical issues and that he has been in the hospital and incurred medical expenses. He suggested that the commission speak with Mr. Sinclair about what progress has been made.

Chair Blakey asked if the applicant had anything to add, and Gary Sinclair explained that he was in the hospital and has diabetes. Chair Blakey requested an update on his project and where he is at this stage. Mr. Sinclair stated that they have been trying to get the property cleaned up and moving things around, so that they could start putting in the foundation for the upcoming year, which was his goal. Chair Blakey questioned what had been completed since the last renewal, and Mr. Sinclair responded that he hasn't done anything related to constructing the residence since he got sick, and it slowed his progress. Chair Blakey asked when Mr. Sinclair started getting sick. Mrs. Sinclair interjected that it was October 2023, but Gary Sinclair reported that he was sick most of 2023.

Chair Blakey inquired if any of the commissioners had any questions or discussion.

Member Hyde asked Mr. Sinclair to give a timeline of what he plans to accomplish over the next year. Gary Sinclair said that this year we were going to finalize buying the property from the owner by December 2024. He has been paying the taxes since 2020. Member Hyde questioned if Mr. Sinclair had been able to accomplish anything in terms of construction on the residence. Mr. Sinclair noted that he has Mr. Frank Woodliff revising the house plans that they have because something was wrong with them.

Member Goings asked Mr. Sinclair to share what all has been done with this property so far, and Gary Sinclair noted that when they first got the property there was not a well or power. The owner got the well drilled, and Mr. Sinclair paid for this. They also had electricity installed in order to run the well in about the same year. The septic system was installed last year. They continued to work on paying off the property, and then he got sick. He kept cleaning the property in order to prepare a location for the foundation of the house to be done. Member Goings reiterated that after he applied for the temporary use permit, he had a well drilled, got electricity installed, and put in a septic system. In the four years since the permit was granted Mr. Sinclair has completed these items.

Vice Chair Nelson inquired what Mr. Sinclair planned to do in the next three months. Mrs. Sinclair responded that the land that is being discussed right now is no good to them if her husband is dead. He got sick and was not stable. They were in and out of the emergency room, so to her the question about what can be done in three months will depend on whether he can stand up and walk. Vice Chair Nelson reiterated that he asked what his plans are. Gary Sinclair said that he would like to get the foundation in the next three months. Mrs. Sinclair pointed out that her husband served his country for 20 years, and he just happened to get sick. He should be able to be excused. Vice Chair Nelson explained that he understands this, but this permit is going on for four years. It is their duty to ask some questions. He then restated that Mr. Sinclair's plan is to pay off the property this year, and there are not really any smaller goals over the next three or six months. He noted that last year

they indicated that they were going to pay the property off, too. He understands that Mr. Sinclair was sick, but this has been going on year after year. Mrs. Sinclair stated that if her husband was healthy and could move around, he would, but she didn't want to make any promises because he needs to take care of his health first. Gary Sinclair reassured them that he had Mr. Woodliff working on some house plans that he got off of the internet because they are getting older, and he wanted to design it to fit their needs. Mrs. Sinclair declared again that her husband served this county for 20 years. The military wants people to retire here, but her husband has been sick. Mr. Sinclair said that they are trying to get the plans completed, so that they can move forward. This was the final year to pay off the amount owed on the land. Vice Chair Nelson verified that they would not apply for a building permit until after they pay off the land, and Mr. Sinclair affirmed that to be correct. Vice Chair Nelson reiterated that this is at least a year out before they will get a building permit.

Member Goings wondered, given the current situation with Mr. Sinclair's health, if any consideration had been given to placing a manufactured home. This would lessen the burden on him. Gary Sinclair said that they had talked about, once his health got bad, and they haven't really looked into that yet. Member Goings just thought that based upon the progress over the last four years and since Mr. Sinclair's health wasn't good they should consider a manufactured home, so that there is less demand on him. Mr. Sinclair wanted to look into what the smallest size house that he could put on the property, instead of trying to build the 2000 square-foot house that he intended to build. He needs to go into the department and discuss that, too. This might help things move forward a little faster.

Member Hyde thinks that Member Goings established that Mr. Sinclair has made some progress—septic, water and power. Gary Sinclair pointed out that when he first got there the lot was just covered with sagebrush and contained primarily sand. Member Hyde then stated that what Vice Chair Nelson was asking is what realistically can be accomplished should the commission grant him another year. Mr. Sinclair restated that once he pays off the land, then he could start building the house.

Member Goings explained that the commission understands and is sympathetic to Mr. Sinclair's position, but they have an obligation to the neighbors. They've been able to complete their homes and structures, and they expect the commissioners to hold people's "feet to the fire". Gary Sinclair then spoke regarding how he and his neighbors get along and are friendly.

Chair Blakey asked for any further comments; there being none he called for a motion.

Member Hyde moved to approve the renewal of the temporary use permit for Gary Sinclair at 1015 Dean Lane, APN 008-532-40, for one year. Member Goings seconded the motion and the decision carried by unanimous vote (4-0).

9. New Business:

A. Consideration and possible action re: An application for a variance from the accessory dwelling unit standards filed by John & Shelley Schafer. The property is located at 3300 Sheckler Road, Assessor's Parcel Number 008-771-33, consisting of 5.0 acres in the A-5 zoning district. The applicant requests a variance from the requirement that a manufactured home be new in order to use a used trailer for the accessory dwelling.

Shelley Schafer, 3300 Sheckler Road, was available to speak regarding this application. In 2019 her grandmother passed away, and she bought her house, which was a three bedroom two bath, and they only had one child at that time. She works for the Navy in North Carolina, and she starts work at 4:30 a.m. This wasn't a problem with the extra bedroom being used as an office. In

2020, during COVID, they adopted a little boy out of foster care from California. This meant that they had to have three bedrooms in the house. She reported that during this time they couldn't find anyone to construct an office or another bedroom, and they couldn't find any place to rent. They found a 2017 FEMA (Federal Emergency Management Agency) trailer that was very inexpensive and placed it on the lot. She started using that as an office because they needed the bedroom. She indicated that she is seeking a variance for the age of the trailer because it is not new.

Savannah Dukes, Planning Technician, shared that the Schafers installed the unit on the property without any permits. In conversations it was understood that they would be using it as an accessory dwelling unit in the future. Staff found that to be the most appropriate path for bringing this into compliance. County Code requires that manufactured accessory dwelling units be new and unused, and Mr. and Mrs. Schafer now seek approval of a variance from the age stipulation citing that the homes manufacture in 2017 would not be noticeably different than a new unit, and that removal of the unit would be costly and create an undue burden. This trailer was used by FEMA in Florida, but during a meeting with the state manufactured housing home inspector to assess the condition of the trailer, it was noted that it was in excellent condition with only minor improvements identified by the inspector, which will need to be met prior to issuance of final permits. The application states that the accessory dwelling unit will not be detrimental to the public as the surrounding neighbors are all family members. She went over the criteria that the commissioners needed to find in order to approve the variance. The Building Department submitted a letter with some requirements including the installation of a full perimeter concrete foundation, which it does not currently have, and inspections of the utility connections. A copy of the letter was provided to the applicant. Staff recommends approval with a few standard recommended conditions, which are listed in the staff report and stated below:

1. The approved variance is ONLY for the 2017 FEMA manufactured home that is currently onsite and does not apply to any replacement of this unit. Any replacement of the unit shall comply with CCC 16.16.020.8(A).
2. All Building Department and Nevada Housing Division requirements shall be met and all necessary permits obtained; including but not limited to the installation of a permanent foundation.
3. The approval of this variance expires one year from the date of the final decision. The final placement permit must be approved before expiration.

Chair Blakey asked if any of the commissioners had any questions or discussion.

Member Goings verified with the applicant that they understand and will comply with the requirements if the variance is approved. Shelley Schafer stated that she is comfortable with them.

Chair Blakey called for public comment.

Chair Blakey asked for any further comments; there being none he called for a motion.

Member Goings, based on the information provided in the application, in the staff report, and heard tonight, moved that the criteria found in CCC 16.08.090 have been met and therefore approve the Variance application for John and Shelley Schafer to allow a 2017 model year manufactured home at 3300 Sheckler Road, APN 008-771-33. This approval is subject to conditions, as listed in the Staff Report. Member Nelson seconded the motion and the decision carried by unanimous vote (4-0).

Chair Blakey thanked the applicant and advised that there is a ten-day appeal period and to

contact the department for further permitting procedures.

- B. Consideration and possible action re: A special use permit application for a multi-tenant facility filed by Rigoberto Uribe and Maria Herrera, Desert Properties R.U.S. The property is located at 5070 Reno Highway, Assessor's Parcel Number 008-531-90, consisting of 2.1 acres in the C-2 zoning district. The applicant proposes to convert the existing building into a multi-tenant complex.

The applicant requested a postponement to the next meeting on May 8, 2024.

- C. Consideration and possible action re: A special use permit application for personal training classes filed by Dan Muller. The property is located at 5070 Reno Highway, Assessor's Parcel Number 008-531-90, consisting of 2.1 acres in the C-2 zoning district. The applicant proposes a martial arts training facility in part of the building.

The applicant requested a postponement to the next meeting on May 8, 2024.

- D. Consideration and possible action re: An application for a zone change filed by Boulder Opal LLC. The property is located at 4250 Reno Highway, Assessor's Parcel Number 008-461-07, consisting of 2.5 acres in the C-1 zoning district. The applicant is requesting a zone change from C-1 to C-2.

Chad Marshall, 4250 Reno Highway, was available to speak regarding this application.

Savannah Dukes, Planning Technician, said that this application is for a zone change. Marshall's Septic Care has operated from this property since approximately 2013 according to business license records. At that time Churchill County Code did not have a use table listing for waste collection services, so it was authorized as a construction contractor, which was allowed in C-1 zoning. When the code was updated in 2019, that use was added to the use table as prohibited in the C-1 zoning district, but because they were already established lawfully before the change it became a nonconforming use and is allowed to continue as it has been. It is not able to be expanded. In March 2024, Marshall's Septic Care applied for and received approval for a special use permit from the Planning Commission for an expansion of their operation with the additional 4500 square-foot shop. Because the nonconforming use cannot be expanded, a condition for the approval of the special use permit was that it could not take place until the zoning district is changed to one that allows the business. The problem is not a result of the actions by the current use, but it is due to the historically inconsistent application of zoning districts along the Reno Highway that do not align with the land uses. This is the situation that the Master Plan states that needs to be corrected, similar to the Card zone change that the Planning Commission reviewed recently. The Master Plan will be updated this year and will focus on making these changes. Staff has undertaken a review of land uses along the Reno Highway and determined that many areas are inappropriately zoned for the uses in them and for the intent of the C-1 and C-2 zones. She shared some other information about zoning districts that was discussed at the previous Planning Commission meeting. It has been determined that the changes in use around this location would fit more closely with uses in the C-2 zoning district. The applicants are proposing a zone change from C-1 to C-2 to remedy the issue and bring the parcel into conformance with Churchill County Code. A change to C-2 would ensure that future uses remain consistent with the surrounding uses. Although the transition to C-2 would initially create a spot zone, this change would be deemed temporary until the completion of the broader rezoning project is outlined in the Master Plan. She went over the findings that the Planning Commission needed to make in order to recommend this application for approval to the Board of

County Commissioners. Staff recommends approval.

Chair Blakey asked if any of the commissioners had any questions or discussion. There were no comments.

Chair Blakey called for public comment. There were no comments.

Chair Blakey asked for any further comments; there being none he called for a motion.

Member Nelson, based on the information provided in the application, in the staff report, and heard tonight, moved that the criteria found in CCC 16.08.060(E) have been met and therefore recommend that the Board of County Commissioners approve the Zoning Map Amendment request for Chad and Mary Marshall of Marshall's Septic Care to change the zoning on APN 008-461-07 from C-1 to C-2. Member Hyde seconded the motion and the decision carried by unanimous vote (4-0).

E. Consideration and possible action re: An application for the abandonment of road easements filed by NV Energy. The properties are north of Interstate 80, Assessor's Parcel Numbers 004-351-09, 004-351-11, and 004-351-15, consisting of 640 acres each in the RR-20 zoning district. The applicant requests to abandon multiple road easements across the parcels.

Jennifer Sahin, 6226 W Sahara Avenue, Las Vegas, NV, was available to speak regarding this application.

Dean Patterson, Senior Planner, stated that this is a request for an abandonment for multiple road easements—eight in total. The properties are located on three one square mile parcels north of the I-80 exit at Brady Hot Springs, which is about 15 miles east of Fernley, and the project is about five miles north of the exit on Sagehen Creek Road. NV Energy is planning a large renewable energy facility, being a solar power project covering multiple square mile properties. The project will be developed in two phases. The first phase will be the north half nearest to the power transmission lines in the northwest corner of the county, which will be submitted in the coming months. The second phase will be the south half closer to I-80. This abandonment application is for the first phase. The next phase will also necessitate additional abandonments. These lands are in the checkerboard area of the county so federal lands abut each side of the petitioners' lands. He pointed these out on the display screen.

Mr. Patterson explained that there are many roads crisscrossing the valley as can be seen in the photo displayed. There is an additional project area south of these that will affect more of these roads. Some of these are historic RS-2477 public roads, some are not, and some have obtained easements on adjacent federal lands. All of these have existed for 60-130 years, and the owner requests that the county abandon these multiple road easements, but only those segments that are within their actual properties. They also propose to relocate the roads around the perimeter of the three sections of land by establishing new road easements and constructing new road facilities. The main access road for the valley is Sagehen Creek Road, and it is not being proposed for abandonment. He denoted this as the pink line on the overhead diagram. There is another east west road, being the only readily passable road connecting Sagehen Creek Road over the rugged hills to North Valley. Just off of the picture to the west is North Valley, which has large segments of the power transmission lines. One of the roads connects the valley, which is proposed for abandonment and relocation.

Dean Patterson demonstrated the roads proposed for abandonment on a prepared diagram displayed on the screen and noted that there are eight recorded document filings of Churchill

County resolutions that identify potential RS-2477 roads. These are a result of the project that the County spent a few years undertaking to identify. The application material uses those relevant resolutions to identify the roads. The staff report identifies these as Roads one through eight along with the reference documents. He explained that these are also listed in the recommended motion because each road that will be abandoned needs to be identified. Nevada Revised Statutes (NRS) allows jurisdictions to place conditions of approval on an abandonment, and that is the approach being used here. The commissioners will see in the staff report recommended conditions that address most of the individual roads, as well as the conditions that apply to the roads in common. The Board may approve the abandonment using the criteria that is in NRS that states that the public will not be materially injured, which is the language used in the staff report. In the assessment of the consequences of the abandonment, the staff report goes into some detail. County departments and officials have discussed the project at length, including multiple site visits, and they do not have objections to the general idea of the abandonment so long as Sagehen Creek Road remained in place and so long as the replacement roads did not cause problems or overly burdened other users of the roads. In early discussions, the applicant removed Sagehen Creek Road from the proposal; however, in reviewing the project it appears that replacement roads around the perimeter were laid out without real consideration for the topography where they would go, and it is unlikely that the roads as they are proposed can work within the proposed easements in some locations. The conditions of approval attempt to deal with these issues. Since the staff report was written, the applicant has come back with options that appear to work better.

In determining if the public was materially injured by the abandonment, staff considered whether the change makes the road unreasonably burdensome on the public, so not just any replacement road is acceptable. The factors that were considered include:

- Will the rerouted path provide reasonable passage for vehicles that would use the road?
- Does the rerouted path greatly increase the distance compared to the original path?
- Does the rerouted path greatly increase the steepness compared to the original path? After discussions it was determined to recommend a maximum of 10% grade be used in any of the rerouted roads.
- Does the rerouted path unnecessarily place the road in hazardous locations that is readily subject to destruction or damage resulting in an access outage or intensive maintenance?

While the Road Supervisor and County Staff are supportive of the concept, there are recommendations for all roads to address on multiple issues:

1. The roads need to be 60' in width.
2. They need to be 20' wide all weather gravel roads with adequate turning radiuses at the corners for the vehicles that use the road.
3. The grade should not exceed 10%.
4. Making sure that it is passable by emergency vehicles, haul trucks, cattle trucks, etc.
5. The roads be engineered to deal with a lot of the steep slope problems at the edges of the project.

Dean Patterson said that the details of the individual roads can be found in the staff report, and then he went over these on the displayed map. He outlined the conditions that relate to the issues staff has determined could cause problems for the public. The staff recommends approval of all proposed segments except a piece of road 4, which he pointed out during his demonstration, but only if the recommended conditions are included. The motion is written so that each road may be abandoned individually and includes the denial for the small segment of road 4. He reviewed the recommended conditions from the Staff Report, provided below.

1. Replacement roads shall be placed in public access easements 60' in width.
2. The minimum physical road standard for development is a 20' wide all-weather gravel road that fire trucks and haul trucks can use.
3. Road grades shall not exceed 10%.
4. Roads shall be engineered, including addressing the following issues:
 - Replacement roads shall be passable by standard vehicles, haul trucks and emergency vehicles, and the turn radius of such vehicles shall be provided for.
 - Steep road grades up or down ravine slopes will need winding paths or extensive earthwork to negotiate a slope with a reasonable grade.
 - Steep road grades will cause additional erosion damage, so the road needs to be durable.
 - Crossings of washes will be subject to erosion damage, and need a durable surface.
 - Stormwater flows will need to cross the road without the road capturing the flow and damaging the road.
5. Road (4) within APN 004-351-15, for which abandonment is denied, shall be improved and maintained in the same state as other perimeter roads.
6. Adjustments to the proposed replacement road along parcel perimeter lines are expected in the areas listed below, and new easement route descriptions must be developed based on engineering and other conditions of approval.
 - a. Replacement road for Road (8) around the northeast corner of the parcel perimeter may follow a different path to deal with slope issues.
 - b. Replacement road for Road (8) along the east parcel line may follow a different path to deal with slope issues.
 - c. Replacement road for Road (8) around the southeast corner of the parcel perimeter shall avoid the ravine to deal with slope and flash flood issues.
 - d. Replacement road for Road (8) - if a different replacement road route than the east perimeter route is proposed, it must be assessed by Staff and issues identified by Staff must be addressed in road engineering.
 - e. Replacement road for Road (7) around the northwest corner of the parcel perimeter may follow a different path to deal with slope issues.
 - f. Replacement road for Road (3) along the south parcel line running across the floodplain is prohibited. The abandoned road shall either be (a) terminated near the south property line with a road turnaround and easement located on the property, or (b) connected to the west, as determined by the County after additional information.
 - g. Replacement road for Road (1) on APN 004-351-15 near the SW corner shall terminate at Road (4) and use Road (4) to connect the perimeter road segments rather than extending to the SW property corner.
 - h. A replacement road for Road (6) shall be added along the south property line to provide connection to the replacement road for Road (1).
 - i. Replacement roads for Road (1) and Road (6) as they near the common corners of APN 004-351-15 and APN 004-351-09 shall be modified to provide a path that reduces the excessive number and sharp angles of turns.
7. The replacement roads shall be maintained by the solar project operator. A road maintenance agreement acceptable to the County shall be developed and recorded.
8. New replacement road easements shall be prepared in compliance with these conditions of approval, and attached to deeds granting the new public road and utility easements.
9. Roads may not be abandoned until the replacement public road and utility easement is

recorded, and the new replacement road is constructed and inspected for approval by the Road Supervisor.

10. Orders of Abandonment shall be prepared for each road to be abandoned. The Order of Abandonment for each road will be recorded separately. The Order for a road may be recorded when the conditions of approval for that road have been completed.

Chair Blakey inquired if the applicant had anything to add, and Jennifer Sahin, Senior Project Manager with NV Energy, shared a presentation (copies were provided to the commissioners and available at the meeting and a copy is attached to the minutes). She explained that she would go over the reason for this request, and let them know how they have listened to staff comments and integrated that into a new proposed reroute. They are proposing this abandonment in support of the Sierra Solar Project, which is approximately 20 miles northeast of Fernley, north of Interstate 80. The project is anticipated to be a 400 mw photovoltaic generating facility. It will also have a 400 mw battery. They anticipate construction to start in January 2025 and conclude around April 2027. The road request is being filed separately from the special use permit due to scheduling costs. Abandonment could be brought along with the special use permits, but due to the size of the project and the amount of money and time going into engineering drawings, they felt more secure in obtaining the abandonments first. Then they will conclude their drawings and bring that package to the board for approval of the special use permit. They are seeking some certainty in terms of the rerouting for the time being, so when they bring the special use permit later, they won't have any road issues come up at that time and have to rework drawings.

Ms. Sahin remarked that NV Energy anticipates that the project will power the northern Nevada grid, help drive economic development to Churchill County with several hundred construction jobs over the two and a half year construction period, as well as generate tax revenue for Churchill County. The property as it exists today is crisscrossed by several of these RS-2477 roads that allow the public to access private as well as public parcels. To ensure the security of the project, to maintain the public's access and safety, and to reduce development costs, NV Energy is seeking approval to abandon and reroute these RS-2477 roads. She demonstrated with a diagram from the presentation how the panels would be laid out in order to show the impractical difficulties of leaving these roads as they are. They want to utilize their property to its fullest extent possible.

Ms. Sahin also shared diagrams with updates to the proposed design that they included in their application. They reworked some of the areas where the staff had concerns with grading, washes, etc. They've also listened to their concern about the road in the corner of one of the parcels, and they have removed that segment of road. They are also keeping Sagehen Creek Road in place. Due to having to rework design a little bit, they are also not requesting abandonment of a segment of road 2 that staff had noted. NV Energy came to Fallon with their contractors and engineers, and they spoke with staff about what would be acceptable in terms of design. Jennifer Sahin understands that staff has conditions of 60' easements, 20' roads, and increasing turning radius to allow access of fire trucks and rancher vehicles. NV Energy is okay with this conditions and will design to the staff's suggestions. They just need some certainty on the overall reroute, and that this is an acceptable reroute for staff. They are requesting approval on their updated plan, and they hope that together they can reach an acceptable reroute for the county, the public and for them.

Chair Blakey asked to go to page 6 of their presentation and for them to verify the edits that they are making on the easement abandonments, including road 4 on APN 004-351-15, which staff was recommending denial, and then road 2 on APN 004-351-15. There was some discussion about how detailed the Planning Commission's decision needed to be since the road wouldn't be able to be abandoned until it was replaced, and Dean Patterson pointed out that there needs to be a

recommendation from the Planning Commission to the Board of County Commissioners. If NV Energy wishes to withdraw the request for road 2, the commission needs to work it into the motion. Joseph Sanford, Deputy District Attorney-Civil, stated that whatever the commission is going to recommend to the Board of County Commissioners will be an action that will have to be taken today. If road 2 is being withdrawn, then no action will be taken on it today, and they could come back regarding this some other day. The action from this commission will be forwarded to the County Commissioners. Mark Warden, NV Energy, 6226 W Sahara, Las Vegas, Nevada, wanted to make sure that the question is answered. They are no longer seeking abandonment of road 2 or road 4 in parcel 004-351-15. Chair Blakey remarked that they are trying to get the motion correct, so that when they make the recommendation that they don't include the wrong thing and it causes greater confusion now that they have edited what was provided to them in the staff report.

Chair Blakey inquired if any of the commissioners had any questions or discussion.

Member Goings noted on page 6 of NV Energy's presentation that road 3 isn't tied back into another road. Jennifer Sahin responded that in the staff report it indicated that there was no need for a reroute of that road since it terminates in their parcel. Member Goings would like to see that tie back over to the reroute for road 1 in the same parcel. He's not sure what the reason for development of that road was, but he would like for it to tie over instead of just terminating at a fence. Ms. Sahin noted that she had some other alternative maps available for them to review, and she passed out copies of these. On page 15 labeled Option C does show road 3 rerouted westward. If the commission would like that option, she could add that. Dean Patterson stated that this road currently ends in the middle of the property, so whether it ends there or at the property line wouldn't seem to matter. If it gets rerouted, going west instead of east would be an acceptable alternative. Condition 6.f. deals with this particular reroute and gives both options. If the commission felt it best to just give one option there, they would need to be specific of which option to choose, or if it doesn't matter, they could leave this condition as it stands. Member Goings verified that if that road would be terminated at the property line, a turnaround area would be provided.

Joseph Sanford, DDA-Civil, questioned regarding roads 4 and 5 in APN 004-351-09 in the updated plan if there is a portion of that road that is no longer intended for abandonment. Jennifer Sahin agreed that they are shown in pink on Option C (page 15) and on page 6 of the presentation. Staff had concerns about zigzagging, so they thought that they would bring the reroute further inside the property line to alleviate those concerns.

Member Hyde inquired regarding road 8 as suggested earlier in the discussion to be rerouted to the southeast corner. Jennifer Sahin informed that staff had issues with the grade and some ravines. She had another option available on page 16 (Option D) showing that road to get rerouted along the west side of the parcel. They thought it would unencumber the public to only have to go up Sagehen Creek Road and then take one turn to go along the south end of APN 004-351-03 over to where that road would continue. Member Hyde noted that all of the reroutes they are suggesting are within the property that is owned by them.

Ms. Sahin requested to have staff's recommendation be supported by the updated layout if the commissioners want Option C or the one from the presentation. Chair Blakey remarked that the motion would state specifically which roads and which reference map to ensure that there is no confusion. Joseph Sanford, DDA-Civil, noted that there were multiple maps provided, and Jennifer Sahin said that there is Options B through D. Mark Warden stated that one of these was referred to by Member Hyde about rerouting road 8 around the parcel to the west, but they thought it was too confusing to do that with a bunch of turns. The diagram on page 6 of the presentation was the one that NV Energy thought addressed all of the concerns. Member Goings said that he would like to

see all of the options. Mr. Warden continued by saying that Option C addresses the issue for rerouting road 3 that Member Goings was concerned about. They would be willing to include that as well. There was some discussion regarding the different options. Member Goings stated that he can understand things better and wanted the public to know what happens to that portion of the road. He thinks that it makes sense without the reroute.

Member Hyde remarked that after looking at all of the alternatives he agrees that the diagram on page 6 in their presentation (without an option number) was the one he would recommend. He believes that they have put a lot of work into this and understand it best.

Dean Patterson pointed out the discussion regarding roads 4 and 5 within parcel 004-351-09 and suggested adding another item to Condition 6 because they have changed the proposed route to say that “replacement road for roads 4 and 5 around the west side of parcel 004-351-09 may follow a different path to deal with site limitations.” Mark Warden noted that on the original application they had indicated a 90 degree turn around the perimeter of the parcel. There were concerns issued in the report by staff that the topography of the area could cause access to that road to be difficult because of grade or other issues. Their civil engineer went out and looked at the property, and he came up with the option that is on page 6. This new dogleg route is meant to address the issue with the terrain to be able to make sure that the road is not going to be excessively steep or have other issues for access.

Chair Blakey called for public comment. 

Chair Blakey asked for any further comments; there being none he called for a motion after conferring with counsel to ensure that they have an accurate description of the roads. 

Member Goings, based on the information provided in the application, in the staff report, and heard tonight, moved that the criteria found in CCC 16.08.050 have been met and therefore recommend that the Board of County Commissioners approve the requests from NV Energy to abandon County road easements for the following Roads if certain provisions are followed as listed in the Conditions of Approval in the Staff Report:

- Road (1) as listed in Doc # 475559, located within APN 004-351-09,
- Road (1) as listed in Doc # 475559, located within APN 004-351-15,
- Road (3) as listed in Doc # 475562, located within APN 004-351-15,
- Road (4) as listed in Doc # 475563, located within APN 004-351-09 with the exception of the portion noted in NV Energy road abandonment presentation page 6 that would not be abandoned,
- Road (5) as listed in Doc # 475568, located within APN 004-351-09 with the exception of the portion noted in NV Energy road abandonment presentation page 6 that would not be abandoned,
- Road (6) as listed in Doc # 475570, located within APN 004-351-09,
- Road (7) as listed in Doc # 475571, located within APN 004-351-09 with the exception of the portion noted in NV Energy road abandonment presentation page 6 that would not be abandoned,
- Road (8) as listed in Doc # 475591, located within APN 004-351-11;

and moved to find that the criteria found in CCC 16.08.050 have not been met and therefore recommend that the Board of County Commissioners deny the

request to abandon the County Road easements for the following road:

Road (4) as listed in Doc # 475563, located within APN 004-351-15;

and based on code requirements and issues raised during review of the project, approval is subject to the recommended conditions in the staff report with an amendment to Condition 6 to allow for the reroute as identified in the NV Energy road abandonment presentation for roads 4 and 5.

Member Hyde seconded the motion and the decision carried by unanimous vote (4-0).

- F. Consideration and possible action re: A special use permit application for rail-based services filed by Rex Massey for Fernley Business Park, LLC. The property is located at 17127 Inland Port Drive, Assessor's Parcel Numbers 009-251-77 and 009-251-78 (portions west of the railroad tracks), consisting of 23.82 and 58.18 acres respectively in the Industrial zoning district. The applicant proposes an expansion of the Western Nevada Transload site to include large buildings, storage of shipping containers, and other facilities.

Rex Massey, Industrial Realty Group, 1190 Selmi Drive, Suite 103, Reno, Nevada, was available to speak regarding this application.

Dean Patterson, Senior Planner, stated that this is an application for a special use permit for a rail-based services and industrial park that was submitted by Rex Massey. He explained that Rex is with Industrial Realty Group, and they own Fernley Business Park LLC, and that Western Nevada Transload LLC is going to be operating the facility. Mr. Massey concurred that Fernley Business Park is the legal entity that owns the property, and Western Nevada Transload is the name of the operating business. Mr. Patterson said that this property is at the county line on the way to Fernley, and you can see the facility off of the highway where there are some large propane tanks. This facility has had a long history with the county—change of ownership, land divisions, special use permits, and so forth. This has been a complex project, and it was very difficult and lengthy to review. This comes from the applicant's desire not to have to come back for a new special use permit with every little change. One aspect of this approach is allowing development to occur over an extended period of time, longer than normal. This decision attempts to incorporate a reasonable duration of phasing so that the rail park can do things over time, which is built into the recommended conditions for approval. Staff is recommending allowance of five years to get the first phase constructed. Mr. Patterson remarked that the more difficult aspect of this approach and has caused the most problems is allowing a future development without knowing the use or the project details, especially ones possibly needing a special use permit, which a lot of industrial development does. The County has a history of difficult industrial projects.

Dean Patterson demonstrated on the site plan that was displayed on the screen how it is divided into three areas. Area one is at the south end of the property, area two is in the middle, and area three is at the north end of the property. Each area has descriptions of improvements, which are then separated into two groups—to be implemented soon group and a future development group. Except for the track, only area one has development that is to be implemented soon. This includes a building and container holding area. Throughout the project mostly the same activities are proposed across all three areas. There are minor variations between the areas, and a few items in one area might be listed that are not found in the other areas, which are described in the staff report in more

detail.

The staff report has three general categories of proposed areas of development. As noted before, there are rail track improvements, and each of the three areas proposes rail track improvements. These are specific and have details, and staff is comfortable approving all of the rail track improvements shown on the application. There is also a category of uses that are described as conceptual buildings, and the staff report states that without knowing the uses or project details they cannot be approved with this special use permit. Another category of uses is the non-building uses and activities, and unlike the conceptual buildings, the application proposes specific outdoor uses and activities. Furthermore, these areas are directly for the main business's transloading operation, which is more similar to the Black Gold Terminals permit that was granted previously. While using that approach is still experimental, since it has never been implemented, staff is willing to try it. Department staff recommends approving the outside storage activities for area one in this special use permit with the details reviewed in the future zoning review. Approving areas two and three is more difficult because there is the complication that the eventual container growth will trigger a traffic report, which in itself requires a special use permit. No traffic study has been done for the existing operation, and one is not being done for the current permit application. The traffic information that was provided in the application was only for area one, and it doesn't appear to trigger a traffic study. It is unknown whether additional expansion of a container and other storage yards would do so. Consequently, staff recommends limiting this special use permit to the area one approval.

Dean Patterson said that the staff report also reviews the five criteria that are required for a special use permit, and he went over these stating areas where there may be issues. There are code compliance issues that need to be addressed with the development of area one. He noted that in these industrial situations the main issue is fire and law enforcement response, and staff is recommending that an emergency response plan be developed that is approved by the Fire Marshal and the Sheriff. This is a standard requirement for all of the big industrial operations that happen in the county. Mr. Patterson stated that the Nevada Department of Transportation (NDOT) controls access to the Reno Highway, and they provided comments indicating that they will need a trip generation letter and review to confirm that the access can handle the additional truck traffic. Since NDOT is the one that constructed this intersection, Mr. Patterson doesn't anticipate any problems. Regarding environmental impacts, he wanted to make sure that the dust is controlled on the past and future development areas. Staff is recommending approval, and there are a number of recommended conditions for approval in the staff report, which are listed below:

1. This permit is subject to annual review to confirm compliance with conditions until such time as the Planning Commission determines it is no longer necessary.
2. Ownership and parcel lines. This permit allows operation of the rail yard across parcel lines. Neither building construction nor material storage is allowed within required setbacks. If parcels are sold so they are under separate ownership, this permit will be void and a new permit must be established to address the new ownership and operation changes.
3. A Master Site Plan must be maintained showing constructed facilities, and then used when proposing a Zoning Review for additional facilities or submitting future Special Use Permits. This includes the facilities approved under this SUP, and any future reviews for the entire site.
4. The following facilities are approved if implemented within 5 years, after which facilities must have their approval renewed in another Special Use Permit. These facilities may be reviewed through a Zoning Review approved by the Director.

- Approval of any track expansions in all three areas that are listed as such in this staff report and shown on the application site plan or addendum site plan. This includes approval of any appurtenant transloading facilities, such as but not limited to docks, ramps, etc.
 - Approval of the graveled use areas described in Area 1, subject to any applicable grading related construction permitting.
 - Approval of container storage areas proposed in Area 1, subject to approved container limits resulting from the Variance application that accompanies this permit application.
 - Approval of Laydown Yards and other outside open-air storage in Area 1.
 - Approval of shipped vehicle and equipment (new and used) storage lots in Area 1. NOTE that normal vehicle parking for a business does not need approval separate from the zoning review or special use permit for the related facility.
 - For the purposes of this permit, no dangerous substances shall be handled or stored, including but not limited to hazardous materials, fuel products, chemicals, explosive materials, etc. Such materials must be handled as a direct transloading and transit item, or the facility must obtain a Special Use Permit.
5. The entire site must be constructed and operated in conformance with County Code and building permit requirements, including but not limited to:
 - a. Business licenses must be maintained.
 - b. All necessary building permits and grading permits must be obtained.
 - c. Requirements for storage containers shall be met, except as authorized by a Variance.
 - d. All code requirements must be implemented with each zoning review to install facilities approved in this SUP, as well as any specific requirements noted in these conditions.
 - e. No additional facilities may be approved until the existing driveway is repaired.
 - f. No additional facilities may be approved until the required 1 parking lot tree for at the existing office is installed.
 - g. No additional facilities may be approved until the office and restrooms are upgraded for ADA accessibility.
 - h. No additional facilities may be approved until the existing office parking area is upgraded for ADA accessibility.
 - i. No additional facilities may be approved until that existing transloading and driving areas are graveled.
 - j. In addition to the proposed Area 1 graveled area, other Area 1 associated transloading and driving areas shall be graveled for dust control.
 - k. Street landscaping shall be installed with the first facility in Area 1. Landscaping for other areas should not be required until facilities in those areas is installed.
 6. Any Zoning Review for Area 1 shall be accompanied by an Emergency Response Plan approved by both the Fire Marshal and Sheriff, or an updated one to accommodate additional proposed facilities.
 7. With the first Zoning Review to implement facilities approved in this SUP, documentation shall be provided:
 - a. from NDEP confirming the Public Water System is approved.
 - b. from NDOT confirming that Area 1 improvements do not need a traffic study or additional improvements. Alternatively, if improvements are required, documentation acceptable to the Director shall be provided that they are underway.

8. Operation of the business shall be conducted in a manner that does not create a nuisance (public or private) under Nevada law or Churchill County Code.
9. All state and/or federal permits required for this type of business shall be obtained and maintained.

Dean Patterson noted that condition 5 deals with conformance of the county code, so it contains a number of items to bring the things that haven't been done yet from previous special use permits up to meet current requirements.

Rex Massey stated that in general he was in agreement with what Mr. Patterson shared. He went through his presentation (attached) regarding the application and development plans in order to explain why he was pursuing more of a master plan look at the site versus just piecing it together as has been the case in the last couple of permit applications. He pointed out that the address has been changed and it is no longer a Reno Highway address. He shared the existing site plan noting that it has a history of rail use and is known as the Darwin siding. They bought it because there is a switch in place, and they had visions of expanding those rail services at that site. Under the industrial zoning district a special use permit is required for anything that is transportation laden services, which is what always brings them to the commission. In addition to the existing facilities they have, Western Nevada Transload has added or intends to add more than 12,000 feet of onsite track. This has been a substantial investment on their part to date because installing track is fairly expensive. The principal business segment is currently transloading bulk commodities for regional local customers. A critical business element going forward for them is going to be transloading shipping containers from truck to rail, from rail back to truck and off their site.

Mr. Massey remarked that as Mr. Patterson indicated they have three development initiatives, which are the subject of the special use permit. There is a 350 rail extension at the very south end, and you can see that they are already building some of the rail. They also have as part of the southern area, which Dean Patterson referred to as area one. This will be a shipping container depot and holding area, and within that is a shipping container staging and handling area. They have very expensive and sophisticated equipment to be able to take containers off of stacks and move them onto trucks or back onto rail. There will be an area there where that type of equipment is moving, and then there are the container stacks themselves. In this application, Rex Massey originally sought a permit for future development utilizing a master plan concept. He believes that they have finally gotten to a point where they understand what kinds of things they are going to do on the site, and he wanted to disclose that to the Planning Commission, so they have an idea of where they are going with this site. It isn't in stone, but it is likely to consist of a combination of buildings, more track, container storage, and they've even talked about milling feed onsite, primarily for local users that could come in to fill up their trucks with feed that has already been milled at their site. He said that he wanted some additional guidance as to the development of the site. It makes it really hard, in terms of designing a site, because you have to spend a lot of money on engineering, and what you don't want to do is spend that money and then go to the approving government entity and have them say that they don't like that, or there was some other constraint or regulation that was applied that changes the whole thing. When he can move forward in that design process and have some input and guidance, he feels a lot more comfortable about spending the money and where they can go within the parameters that are allowed by Churchill County. This is the reason that he submitted this long submission and a site plan that covered the entire area. He will go with Mr. Patterson's recommendation and remove areas 2 and 3 from this application. These are for future development, and they are working hard to get a user for the building proposed in area 2. He understands that there are some concerns about not having sufficient amount of detail, and he

will bring this back at a later date. We will concentrate on area 1, which is the southern end of the site. He further noted that in the site plan there is an area denoted with some hash marks, and all of that has either been developed or subject to the existing special use permits that have been granted. He asked for any questions from the commission that he could answer to help them understand the direction they plan to go in the future.

Member Hyde inquired about area 4 that Rex just mentioned, and Mr. Massey explained that there have been three special use permits that have been previously approved by the commission for this site. These are existing facilities that have been built and developed. Dean Patterson clarified that the last special use permit was for one branch of the three and the southern track. He then stated that the remaining would be authorized with this application.

Member Hyde asked if Mr. Massey could give an idea of the cost to lay down 350' of track. Rex Massey answered that after it is all installed it is probably around \$550 per linear foot, and they have put in 12,000'. Member Hyde just wondered about the kind of investment that is made here. He verified that Mr. Massey is taking areas 2 and 3 out of this application since these were causing the most concern, and Rex Massey agreed that these could come forward later.

Mr. Massey, in looking at area 1, pointed out some of the features that are common to this development area. He remarked that they will have a perimeter security fence, and it will probably be up to 10' in height with barbed wire on top. Some of their users are going to require this type of fence be installed for security purposes, so that people cannot get onto the site. Oftentimes, there is going to be expensive items that are going to be in those containers that are awaiting shipping either in or out. Security is important to them. They are even willing to look at slatting the fence in order to create a visual barrier for their site. He thinks that would be appropriate to help reduce and minimize the visual impact that a container handling area and equipment can present along the highway. They are considering a 25' to 30' wide landscape buffer that is 5'-6' high. The purpose is to address the aesthetic issues and visual impacts of the site. Between the fence and the landscape buffer, he thinks that they can do a pretty good job of obscuring the view into the site. Rex Massey also noted that when they grade this site, it will likely drop 3', so then the containers and equipment will set down even lower. There will be a berm with a fence and very possibly landscape trees, so it will work very nicely to shelter the view from the highway. They don't have any plans to handle any kind of hazardous materials, other than what comes in from DOT (Department of Transportation) regulated shipments with the appropriate notated plaques. They are not a business with any plan to handle any kind of hazardous materials, and if they do, they will certainly come back to the commission for a special use permit. Regarding hours of operations, they may potentially expand in the future to a 24/7 operation schedule, but most will be done Monday through Friday from 7:00 a.m. to 7:00 p.m. There is site lighting for safety and security purposes, and those have been subject to previous special use permit approvals.

Rex Massey explained that their container stacking needs to be a minimum of three high, and there is a fair amount of logistics and operational elements that come into play. A container stack is driven by a multitude of influences. It has to do with where those containers are being shipped, which ports or areas of the country, who is scheduled to come in and go out, and so how that stack is designed and laid out is critical. Going higher improves their efficiency because they have expensive pieces of equipment that have to move the containers, and the more they are moved the more costly it is. That cost is borne by their customers. Another important element of this is safety of operation. The more that piece of equipment is on the site and the further distances it has to go, the greater opportunity for accidents and other problems to happen onsite. For safety purposes they want to minimize that kind of movement. Regardless of whether they have 200 acres or 500

acres there would be a stack somewhere on that lot. It isn't that they can just spread it out and limit the height; it just doesn't work that way as part of a shipping operation. Another thing that they may propose, Mr. Massey thought it was part of this application, there is always an opportunity for some kind of a lay down yard and dimensional materials come in (plastics, minerals, aggregate, etc.) and these could be placed on their yard awaiting shipment either in or out. Some of the material may not be in containers as it could be other materials and commodities that are there. He noted that they had requested four high internally largely because it is obscured from view, and this works better operationally, but he thinks that it will be difficult to convince people that they should be allowed to stack to that extent. They made that concession on their own to just request three high in area 1. Internally, where it is really obscured from view by the surrounding hills, they would like to be able to stack four high because it works better for them and areas 2 and 3 really can't be seen from the road.

Member Hyde inquired regarding the barrier that they will create. As he understands there will be a 10' fence with slats with a 3' berm, and Mr. Massey added that the berm will be 3' to 10' in height. Member Hyde then reiterated that it was indicated they would grade another 3' below, he asked how high the visual barrier will be. Rex Massey expressed that it would be around 20'. When a person is traveling on the highway and looking off in the distance, they are viewing it at an angle, so pretty soon 30' of containers disappears. Member Hyde remarked that this isn't that close to the city in terms of the corridor that they have been concerned about, and he likes the idea of how high they are going to mitigate this problem.

Member Goings questioned if trees are a part of their plan as well. He stated that he doesn't know how successful trees are going to grow in that type of soil since there isn't very much that grows out there now. He would rather see more of the berm at fence height rather than plant trees that will die out there. Mr. Massey agreed that the soil is a challenge, and the water is equally challenging. Chair Blakey stated that he thinks that the commission could determine some type of parameters of how high the berm can be and how high the fence can be, and then if he is already agreeing that they will make it 3' lower, then he could work out the landscaping details with the department and talk about trees. Member Goings wanted to make the point that if they are going to spend a little extra money here, instead of planting trees he would rather see the berm go a little higher, which would help the screening out there. He just doesn't see that trees would be successful in that area. Chair Blakey mentioned that if the commission thought that stacking the containers two in height was acceptable, then as long as his landscaping makes it less than two high it would work. If he is three high, then it may still work since it would appear to the traffic on the highway as less. Rex Massey pointed out that in the south area about halfway down at the very southern end, they will not be able to stack the containers three high. It would be left for trucks and containers on chassis, and equipment. There is going to be a limited area where they would actually reach those heights. Member Goings thinks that the visual impact is probably going to affect the westbound travel lane. The eastbound travel lane would probably never see it, or it would be behind them before it would be visible. It would be seen more by the westbound traffic going to Fernley, and that would be the area where they could add more height to the berm or fencing to block the view. Dean Patterson reminded everyone that there is another application for the container variance, filed in conjunction with this application, is the next item on the agenda. He said that they will discuss this more fully with that agenda item. These things have a bearing on this special use permit application; however, that decision will be made with the next item on the agenda. Chair Blakey inquired if they should get the details of the height of the berm, height of the fence, and so forth, so that it coincides with what the commissioners may or may not approve in the next item. Dean Patterson agreed that

they could do that. Joseph Sanford, DDA-Civil, remarked that if their intention is to limit it just because of the container height, they could probably wait to decide that on the next item because if they decide to limit the height to two containers, the height of the berm or fence might not make any sense.

Chair Blakey asked if any of the commissioners had any questions or discussion.

Chair Blakey called for public comment.

Chair Blakey asked for any further comments; there being none he called for a motion.

Member Nelson, based on the information provided in the application, in the staff report, and heard tonight, moved that the criteria found in CCC 16.08.080(H) have been met and therefore approve the limited improvements listed in the Conditions of Approval, and have not been met and therefore deny all remaining improvements not listed in the Conditions of Approval for the proposed special use permit for Rail Based Services and Industrial Park expansion for Western Nevada Transload owned by Fernley Business Park on APNs 009-251-78 & 009-251-77. This approval is subject to limitations and conditions, as listed in the Staff Report. Member Goings seconded the motion and the decision carried by unanimous vote (4-0).

Chair Blakey thanked the applicant and advised that there is a ten-day appeal period and the department will contact him to complete the process.

G. Consideration and possible action re: An application for a variance from the limitations on shipping container storage in Churchill County Code 16.16.020.3.1 filed by Rex Massey for Fernley Business Park, LLC. The property is located at 17127 Inland Port Drive, Assessor's Parcel Numbers 009-251-77 and 009-251-78 (portions west of the railroad tracks), consisting of 23.82 and 58.18 acres respectively in the Industrial zoning district. The applicant proposes to waive the limits on the number of shipping containers on the property and requests to be allowed to stack them three units high.

Rex Massey, Industrial Realty Group, 1190 Selmi Drive, Suite 103, Reno, Nevada, was available to speak regarding this application.

Dean Patterson, Senior Planner, reiterated that this is an application for a variance from the shipping container limits for Western Nevada Transload. This is very similar to the container variance that the Planning Commission heard last month. The variance requests exceptions from two provisions of the container code standards. The first is the limit for one shipping container per acre on a parcel. This is an 82 acre parcel, so they would normally be allowed 82 containers. They are asking to exceed that. The second is the regulation that states that containers may not be stacked. As has been discussed with the previous agenda item for the special use permit, they are asking to stack containers three high in area 1 and four high in areas 2 and 3. Staff generally supports the idea of the variance for these container handling facilities. This is based on the previous container variance, and it seems like the Planning Commission supports that idea. The staff report lists multiple considerations for the commission to make their decision. They should look at whether the variance is appropriate in any way, and he thinks, based on the previous review during last month's agenda and the discussion tonight, it sounds like the Planning Commission supports that idea. If the variance is warranted, then they need to decide if it is acceptable to waive the number limit entirely, if it is acceptable to stack the containers, and if visual mitigation is needed. Mr. Patterson

understands that some of the commissioners have specific thoughts on these considerations. He noted that there are criteria they must meet in order to grant the variance, and these are listed in the staff report with staff comments. He thinks that what the staff report is recommending for the motion is likely to change, so he wants them to pay attention to how they would like to change the motion that is listed in the staff report, as well as any conditions of approval.

Rex Massey restated that they are requesting three containers stacked in the south area, and four in height in the internal area, which he doesn't believe can be seen from the roadway as it is pretty concealed by the topography. It is also a further distance from the road. He said that stacking four high would not have any visual impact from the highway. The three containers high is really the minimum that they can operate under efficiently and safely at the southern end, and some of these container areas are broken up by wide drive aisles. This will be broken up and it won't be a solid wall of containers particularly at the south end, where it will include operations and other vehicles being parked there. It will most likely happen during loading operations, which is short-term. It would occur during the day where there may be three stacked that is removed a short time later or the next day. This creates less of a chance for the visual impact. Mr. Massey stated that he generally agrees with staff, but he has had some difficulty with the variance itself primarily because the requirement and limitation on density and stacking relates to containers being used for storage. They are not using these for storage; they use containers for shipping. It is a big difference, and he thinks that this provision in the code applies to another situation that is not on their site. With that being said, he is more than happy to work out whatever is needed to be done and seeking the Planning Commission's support. He noted that what they have planned for the site in terms of berms and slatted fencing is probably going to exceed even what staff has recommended in the staff report. He thinks that they can come up with a site that works well for them and takes care of some of that visual impact.

Chair Blakey asked if any of the commissioners had any questions or discussion.

Vice Chair Nelson spoke regarding Mr. Massey's comment that there is no storage; however, it was discussed earlier about there being heavy and expensive equipment in those containers. There is some storage, but what is the length of time that these might be on the property. Rex Massey answered that there are all types of commodities in the containers. Vice Chair Nelson again said that there is some storage going on while these are on this site. Mr. Massey explained that he looks at the storage element of it somewhat like going to the store and purchases a box to store his old files in. He puts stuff in there to store and may not ever look at them again for a great length of time. When he purchases something from a store and it is delivered in a box or container, this is more for shipping. Vice Chair Nelson questioned how long some of the containers might remain on the site, and Mr. Massey responded that in the operations area it could be a day. No one will notice a single container as these are constantly moved and shipped. Containers may stay a week or so depending upon shipping schedules—who it is, where it is going, and so on. Vice Chair Nelson then inquired how many containers they thought they would have on site, or they would need to have on site. Rex Massey said that it would depend upon customer demand. Vice Chair Nelson shared that he is hesitant to approve unlimited containers, so this is why he is asking for a number. They have never done that before, and to just allow them to have 10,000 containers there, he is not comfortable with that. Mr. Massey stated that allowing the containers to be stacked three high creates a constraint, the dimensions of the parcel is another constraint, the size of the containers is another constraint, and so on. Vice Chair Nelson just wanted an approximate number of containers, and Mr. Massey said that he would have to make some measurements and then he could give a number, but he doesn't think that it would exceed 1,000 and would probably be in the

hundreds. Vice Chair Nelson brought up that they previously allowed four per acre, which would be around 320 containers on that site. This is the direction that he is considering, and this is why he asked for an approximate number of containers. Rex Massey said that a typical stack might be six deep, end on end, and three high with six to eight feet wide. There would also be a driving aisle, so it really depends on the site layout, and he doesn't mean to avoid the question.

Member Goings inquired if there is no distinction in the code between industrial, commercial, residential or anything on the number of containers except that it is one container per acre. Dean Patterson responded that it is more or less accurate; however, for the non-business zones—not C-1, C-2 and Industrial—it is a maximum of two containers. Member Goings thinks that everyone is in agreement that this needs to be addressed in the next code amendment. He then asked regarding the last variance that they approved if it was Industrial or C-1 zoning. Dean Patterson responded that it was C-2 zoning. Member Goings expressed his opinion that they need to have another distinction between C-2 and Industrial zoning because Industrial seems to be compatible with containers. He thinks that the discussion about storage versus shipping with containers does show that there is a difference. Storing equipment and products in these containers at a business site is different than product being transported in containers via rail or truck, to and from, back and forth. You would see a lot of turnover there of containers. He believes that somewhere along the way they need to make some clarifications on these things. Dean Patterson pointed out that in the last meeting and in this staff report he noted that he has had inquiries about container type businesses, including containers for transportation, container modifications and sales, and other potential businesses might be container manufacturing. He has even had inquiries from the Port of Oakland to store overflow containers out in the desert. This could be 1,000 or multiple thousands for all he knows. There are a number of categories of businesses that handle a lot of containers, and transloading is one of them.

Joseph Sanford, Deputy District Attorney-Civil, remarked that another agenda item on this meeting is discussion for possible topics for a Planning Commission workshop, and one of the intended topics of that meeting is to discuss code revisions for the storage container limits. He recommends that when they are considering this variance to remember that if they grant a variance today, and then end up amending the code to allow greater use, it will become applicable to this project automatically when the code becomes effective. On the other hand, if they grant a variance that is greater than what they end up allowing in the code changes, that would be something that becomes grandfathered in and will be allowed for one user but not others. He recommended that they consider this broadly regarding how they will deal with the many potential applications they will receive.

Member Hyde again wanted to clarify that he was under the impression that they were only considering area 1, not areas 2 and 3. During the discussion about the variance it seems that Mr. Massey includes all of the areas in the request. Rex Massey explained that he was referring to the staff report when he was sharing his presentation. Member Hyde thought it would be best to just deal with area 1 and leave the rest out of it. Mr. Massey was fine with this decision. Member Hyde pointed out that they are requesting to stack these three high. He knows that they have a certain footprint that confines how many they would be able to put in there. He was originally thinking along the same line as Vice Chair Nelson about limiting it to a number. He then thought that if they are only three high and they will be confined by whatever the area is, do they really need to pick a number. Member Goings explained that picking a number is going to put definite constraints on the business, and he thinks that the topography and layout of the lot is going to define the number. They are not stacking these things end to end, side by side, and they will need to have transportation

ability to move them. He thinks that addressing the stack height is the route they need to go with this. There was more discussion between the members about the potential for setting a limit and using things that they have approved in the past to determine what could be allowed with a variance until they had the workshop to discuss a code change. Chair Blakey inquired if Mr. Massey knew the size of area 1 and if he had investigated to determine how many containers it could hold. Rex Massey replied that it is about 22 acres in there, but there is an area that would require a lot of grading to bring it to a usable level. He thought it would be reasonable to consider a total of about 10 acres, which would include the stacked container area with three in height. Further south on the lot would be more of an operations area where there will be containers on chassis and containers stacked maybe two in height. He went over the constraints and engineered site layout and how they will limit the number of containers. Dean Patterson after reviewing the application materials noted that the area 1 shipping container holding area might be 15 acres including the aggregates, and the initial holding area will be 10 acres, and will house vehicles so that will take up some of the space. Rex Massey agreed that it is reasonable to state that there will be 10 acres upon which to have the stacked containers. Chair Blakey asked if Mr. Massey would be completing a site plan for that area showing the container stacking and processing. Rex Massey stated that it is pretty complicated to come up with the layout of the container yard and how it all works together logistically. Chair Blakey wondered if they could approve the containers and let the limit be based upon the site plan that gets approved by the department once they look at it. Joseph Sanford, DDA-Civil, answered that legally they can, and he would suggest that if it doesn't exist yet, it will be difficult for the public to come in and provide comments about what that will look like. He would be hesitant to go with that plan. Chair Blakey then inquired if it was detrimental to Mr. Massey's operation to provide a site plan prior to approval of the variance. Rex Massey said that when they get to those types of site plan details it is with Building Department staff, and they work within the constraints that they were given. Stack height would be one of the primary constraints and would really limit the number of containers on the site. He thinks that if they do some of the more enhanced measures with the berm and fencing, it may take care of the visual impact if that is the primary concern. He emphasized that what makes them different from other container uses is that the container regulations in the code is really directed at non-rail users and non-shipping users and sites. Those areas aren't designed, zoned, or recognized as part of the rail infrastructure. They are really different from those using containers for storage on a lot. Those are generally no longer part of the rail system or part of industrial use.

Member Goings wanted to address the tree issue because he doesn't think that trees are going to grow there. He would rather see monies be spent to build the berm, to create a higher screen, than to try to plant trees that due to a lack of water and poor soil conditions are not going to grow or provide any screening whatsoever. Then there will be just a bunch of dead trees. He also went back to Vice Chair Nelson's concern regarding the number of containers based upon an acre for the ten acres that is there. He thinks that the containers that pose a visual issue can be addressed by limiting the stack and creating the buffer or screening. He thinks that they should be able to use their lot however they can to their best beneficial use. Member Hyde agreed with Member Goings that they should approve the three containers in height, and what is left to decide is how to appropriately screen that. How high the berm will need to be, and Mr. Massey has already said that he would build a 10' fence with slats, which was suggested. Member Hyde reiterated that the fence could be built upon a berm, and Mr. Massey confirmed that this has been done at other facilities. Member Hyde then stated that they need to decide how high they need to go, so that from the road the visual impact is screened. Rex Massey responded that considering the drop in elevation to the

site combined with the berm and fence would be equivalent to about 20', and the containers will have the additional setback so that they may only see the tops of the third containers stacked, but it will certainly screen the first two. Member Hyde agreed that it would be better than the 8' fence that was included in the variance they approved last month. Chair Blakey stated that they could consider adding to the motion that the visual screening would be a minimum of 20' tall from the lay of the land. Rex Massey then requested flexibility to design what they will actually use because at the southern end they will probably not reach the 20' height. It might not be needed, so he asked that they be allowed to design to the heights that is likely to be in the different areas. When they get to the area where the containers will be stacked three high, they will make sure that they are getting the maximum screening. Chair Blakey reiterated what Member Goings was suggesting that they set the screening and stacking limits, and then whatever is feasible to go on this property isn't a real concern of the commission.

Chair Blakey called for public comment.

Chair Blakey asked for any further comments; there being none he called for a motion. Dean Patterson noted that their discussion leads him to believe that they will need to state specific conditions since they may be different from those recommended in the staff report.

Member Hyde, based on the information provided in the application, in the staff report, and heard tonight, moved that the criteria found in CCC 16.08.090(F) have been met and therefore approve the request for a Variance from container number and stacking limits for Western Nevada Transload on APNs 009-251-78 & 009-251-77, noted as Area 1 on the site plan. This approval is subject to limitations and conditions, as discussed in the meeting and outlined in the conditions (see below). Member Goings seconded the motion and the decision carried by a vote of 3 in favor (Members Hyde, Goings and Blakey) and 1 against (Member Nelson).

Conditions:

- 1. Limited to Area 1 as noted on the site plan submitted by the applicant.*
- 2. Maximum three (3) containers high in stacking.*
- 3. Twenty-foot (20') screening sufficient to mitigate visual impact of the holding area from the highway of the stacked containers.*

There was some discussion regarding screening requirements for the building and whether it should be required on multiple sides to account for differing angles. Dean Patterson also mentioned that there are berms currently in the locations noted as area 2 and area 3 on the site plan, so if these are approved in the future, those berms will be removed, but then the buildings will kind of serve the function of screening. These are the kinds of things that he tries to consider when he makes recommendations. Member Hyde pointed out that they are only talking about area 1 on the plan. Mr. Patterson then asked if they would like to have the screening extended to the west edge of area 1 or just the container holding area. Member Hyde reiterated that whatever screening is appropriate to mitigate the visual appearance of those stacked containers. Rex Massey said that they would screen at the very south end all of the way across the parcel to the rail right-of-way; at the north end where the building sits on site 1 there is a big hump there, and they will work out the landscape berm to combine with this big mound there to create the screening element. They are willing to screen not only along the highway, but also to wrap it to each side to create that barrier. Chair Blakey restated that the applicant has confirmed that the screening will go as necessary to close off

any visual impacts to people from the highway. Member Goings reiterated to delete the trees from the landscaping portion. Dean Patterson pointed out that there is some landscaping that is required, but it doesn't have to be trees. Chair Blakey commented that those issues could be worked out with the department.

10. Discussion Item: Possible topics for Planning Commission Workshop

Joseph Sanford, Deputy District Attorney-Civil, stated that there is a planned workshop for the end of this month (April 30, 2024). There are four topics that he would like to bring to the commission's attention at that time. Those topics are:

- 1) Changing the review of temporary use permits to an administrative function within the Public Works and Planning Department with either appeal rights to the Planning Commission and the length of time they would like to allow for, specifically, the home construction permits—an administrative use or a total amount of renewals allowed all together.
- 2) Storage container limits as they have just been discussing, particularly, the amount of limits that they will be providing by zoning districts; whether they want to allow containers in any of the residential zones for residential use; the limits on stacking; and whether they want to have any special limitations for particular types of businesses that would potentially be excluded such as container manufacturing, container shipping, etc.
- 3) Landscape requirements that are currently required throughout the code. He said that they have been informed that the new construction requirements have not been terribly burdensome; however, when there is either an expansion or a change of use, these have been problematic. Any particular requirements that they may think should apply or whether they would be open to the Director having some approval of a landscape plan instead of it coming before the commission.
- 4) Outside storage screening is something that has come up multiple times. He think that the considerations here would include whether they want to change the zoning limitations, or whether they want to limit it to a particular corridor.

Mr. Sanford indicated that he will be working with staff to provide some proposed language that will be for their consideration at that time. He doesn't expect to make recommendations at this workshop as to the exact language. He would like to receive their input and thoughts, and then he would prepare the final language for a regular meeting. Chair Blakey asked regarding the storage containers if they would be talking about the limits of property use as all encompassing, and Mr. Sanford confirmed that as accurate.

11. Consent Agenda: All matters listed under the Consent Agenda are considered routine and may be acted upon by the Planning Commission with one action and without an extensive hearing. Any member of the board or any citizen may request that an item be taken from the Consent Agenda, discussed and acted upon separately during this meeting.

- A. Consideration and possible action re: Termination of a temporary use permit for temporary quarters during home construction previously granted to Joseph & Margaret Diaz for property located at 732 Wildes Road, Assessor's Parcel Number 006-711-11, in the A-5 zoning district. The applicant no longer needs the permit as they have completed their residence; therefore, the permit should be terminated.
- B. Consideration and possible action re: Termination of a temporary use permit for temporary quarters for a caregiver previously granted to Jewel Berry for property located at 8940 Brush

Garden Drive, Assessor's Parcel Number 007-121-27, in the A-10 zoning district. The applicant did not respond to the letters sent regarding the renewal of the permit. Since there is no request to renew the permit, it should be terminated.

- C. Consideration and possible action re: Termination of a temporary use permit for temporary quarters during home construction previously granted to George & Anne Taylor for property located at 4909 Solias Road, Assessor's Parcel Number 006-435-35, in the A-5 zoning district. It is noted that although the permit had been terminated in our files for no renewal due to the completion of the home in 2018, termination was never recorded on the parcel. This permit is no longer needed and should be terminated.
- D. Consideration and possible action re: Termination of a temporary use permit for temporary quarters during home construction previously granted to Levi Coonce for property located at 798 Triple E Lane, Assessor's Parcel Number 009-111-47, in the A-10 zoning district. The applicant stated that the primary residence is almost completed, and the permit is no longer needed.

Member Nelson moved to approve the consent agenda as submitted. Member Goings seconded the motion and the decision carried unanimously (4-0).

12. Public Comment:

There were none.

13. Adjournment:

There being no further business to come before the Planning Commission, Chair Blakey adjourned the meeting at 9:22 p.m.

14. Appendix:

Supporting Documentation

Approved: 
Eric Blakey, Chair

Approved: Not Available
Scott Nelson, Vice Chair

Approved: Not Available
Zack Bunyard, Commissioner

Approved: Not Available
Deanna Diehl, Commissioner

Approved: 
Jeff Goings, Commissioner

Approved: 
R. Mark Hyde, Commissioner

Approved: 
Paul Picotte, Commissioner

ATTEST:

Diane Moyle, Administrative Assistant