



CHURCHILL COUNTY
PUBLIC WORKS, PLANNING, & ZONING

155 N. Taylor, Ste. 194, Fallon, Nevada 89406
Off. (775) 423-7627 Fax (775) 428-0259

STAFF REPORT FOR PLANNING COMMISSION MEETING – July 12, 2023

Prepared July 5, 2023

PLANNING COMMISSION MEMBER-STAFF MEETING

A meeting was held on July 5, 2023 to review the project applications listed below that are on the Planning Commission meeting agenda. Site visits were made as noted.

• Omaha Track 1-year review of SUP	Page 2	No Site Visit
• Fernley Business Park SUP for transloading operations	Page 6	No Site visit
• Ordinance 2023-A to modify vehicle sales in use table & definitions	Page 10	No Site visit
• Consent Agenda	Page 12	No Site Visit

PC Members Present

Zack Bunyard
Mark Hyde

Staff Members Present

Chris Spross
Dean Patterson
Diane Moyle
Joe Sanford

REVIEW OF PROJECT FILES

The Public Works, Planning, and Zoning Department Staff has reviewed these applications for compliance with Churchill County Code as required by the Development Code. This staff report summarizes our findings and provides recommendations for the Planning Commission to consider while making their decisions on a project or making recommendations to the Board of County Commissioners.

If you have questions concerning details of the project or this staff report, please contact the Public Works, Planning, and Zoning Department staff for assistance.

MINUTES OF THE CHURCHILL COUNTY PLANNING COMMISSION

155 N. Taylor St., Fallon, NV 89406

July 12, 2023

1. Call to Order:

The regular meeting of the Planning Commission was called to order at 7:15 p.m. on July 12, 2023 by Chair Blakey. The meeting started late awaiting another Planning Commissioner to complete a quorum.

Present: Eric Blakey, Chair; Zack Bunyard, Member; Mark Hyde, Member; and Paul Picotte, Member.

Absent: Deanna Diehl, Member; Jeff Goings, Member; and Scott Nelson, Vice Chair.

Planning Staff Present:

Chris Spross, Public Works Director
Dean Patterson, Senior Planner
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 July 6, 2023, between 8:30 a.m. and 5:00 p.m., in accordance with NRS 241 and the Churchill County Code.

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

Member Bunyard moved to approve the agenda as submitted. Member Hyde 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. June 14, 2023 Hearing

Member Bunyard moved to approve the June 14, 2023 minutes as written.

Member Hyde seconded the motion and the decision carried by unanimous vote.

8. Old Business

A. Consideration and possible action re: Review of special use permit for Rail Based Services Facility previously granted to Omaha Track, Inc. on property located at 1006 Nevada Street,

Hazen, Assessor's Parcel Numbers 009-251- 74, 009-251-86, and 009-251-88. As a condition of approval, the Planning Commission required a review in one (1) year.

Director Spross reiterated that this is a one-year review of a special use permit. He gave a little background from the Staff Report of Omaha Track's railroad tie sorting operation at this location for the newer Planning Commissioners. The site includes several functions, such as handling railroad steel track, fasteners, etc., and the facility requires a special use permit (SUP) on multiple grounds. The rail-based service required an SUP, uses that may impact public health and safety require an SUP, and this facility will store large quantities of very flammable, creosote coated rail ties outside where they are more susceptible to combustion, which also requires an SUP. The operation started in mid-2017 with the understanding that it would eventually obtain a special use permit. The applicant did not pursue the SUP until prompted by the Planning Director after receiving complaints by neighbors, TCID (Truckee Carson Irrigation District), Fire Marshall, and the travelling public. At that time, extreme levels of stacking railroad ties had occurred, likely with more than one-half of a million ties. It was understood early on that a road maintenance agreement would be needed, but that was deferred to the special use permit process. In March 2019, a special use permit was approved with most of the operations being east of the railroad triangle with all operations located on the two easternmost parcels. The west parcel adjacent to the community of Hazen was labeled as a buffer between Hazen and the site operations. In June 2019, the company requested an alteration to the SUP to allow the use of a portion of the west parcel, east of the main site road that runs from the site entrance southeast through the westernmost parcel. Subsequently, the company requested to place minor site elements west of the road, such as the well and the water tank. The current plans continue to propose additional operations west of the site road. In addition, it was learned that a substantial amount rail steel (track and fasteners) was being stored north of the track, which was not part of the previous SUP. The current application results from the fact that the previous SUP had a layout that was never implemented, so it essentially expired. The application proposes a different layout that more simply permits the existing operations with some new short-term facilities installations, such as the permanent office.

The current SUP was approved in July 2022. Shortly after approval, a fire at the facility consumed most of the entire stock of ties. The County initiated the revocation proceedings in order to modify the conditions of approval, especially to incorporate many more fire protection measures. The result was a stipulated agreement with revised conditions of approval that was approved by the Planning Commission in December 2022. This is a one-year review, and is a condition based upon that July 2022 date. The point of the review is to ensure that the code requirements and the conditions of approval are met. If the project is not in compliance it may result in the initiation of permit revocation proceedings. Omaha Track provided a status report on meeting the requirements, including support materials for progress on some of the items. Many of the conditions have not been completed. It appears that the company did not want to invest in constructing facilities required by the conditions of approval until they received clearance from the Nevada Division of Environmental Protection (NDEP) that the site was not contaminated. A letter from NDEP, dated June 30, 2023, was provided.

Director Spross went over the conditions of approval in the stipulated agreement along with staff comments as they are listed :

1. This permit is subject to review/renewal on or about July 12, 2023, to ensure compliance with County Code and the conditions of the Special Use Permit. Except where otherwise stated, all conditions are effective immediately upon approval by the Planning Commission.

STAFF COMMENT – *This Planning Commission review is in response to this condition. As*

noted below, some conditions have not been completed.

2. The facility shall operate within a limit of 150,000 railroad ties, equivalent to 30,000 CY of combustible material, stored on-site at one time. All railroad ties must be stored within designated storage zones in a manner substantially similar to that shown in the site plan, attached as Exhibit A.

STAFF COMMENT – In compliance, though there are other limits on numbers of ties that are out of compliance, as noted below.

3. There shall be no material storage north of the mainline.

STAFF COMMENT – *In compliance. The applicant indicates that materials north of the tracks have been moved to the main operations area.*

4. There shall be no rail spur expansion on Lot 3.

STAFF COMMENT – *Ongoing requirement – In compliance.*

5. There shall be no material handling or storage on the portion of Lot 1 west of the site road (adjacent to Hazen).

STAFF COMMENT – *Ongoing requirement – In compliance.*

6. The operation of the rail yard across parcel lines is permitted. Building construction is not allowed across property lines. 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.

STAFF COMMENT – *Ongoing requirement – In compliance.*

7. Dust and mud track out onto roads shall be controlled by providing an all-weather driving surface (gravel, paving, etc.) for all driving paths used in the operation, including roads, driveways, parking lots, and loading areas. General dust abatement on-site shall be provided by wood chips/shards, water, and dust palliatives.

STAFF COMMENT – *Out of compliance. Only the old highway roadbed is graveled. No changes have been made for this requirement, though the applicant states there are plans to do so with the building construction.*

8. The applicant shall abide by the road agreement with the County Road Department regarding the use and maintenance of Nevada Street and the use of Hazen Avenue.

STAFF COMMENT – *Ongoing requirement – In compliance.*

9. The applicant shall comply with the written Fire Protection Plan (“Plan”) signed by the Fire Marshal, and shall implement the Plan in accordance with the schedule authorized by the Fire Marshall as shown in Exhibit B. The Fire Marshal may require updates to the Plan to ensure the fire safety of employees and the public. Applicant shall implement all updated requirements within thirty (30) days of requirement by the Fire Marshall.

STAFF COMMENT – *Out of compliance. While most Fire Protection Plan requirements have been implemented, the most important item has not been implemented—construction of the office and shop to provide a freeze-proof location to store water trucks. It is tied to the allowance for increasing the number of stored ties over 50,000 AND no later than this annual review. Ties have recently exceeded this limit, the 1-year review has arrived, and no building has been constructed. **NOTE** that the office and restrooms are also required for a permanent place of business.*

10. Scrap materials shall be stored in containers as set forth in the Plan. Debris and scrap materials shall not accumulate in substantial quantities on the site. Containers must be shipped out within 90 days of being filled with material. There shall be no more than fifteen (15) containers on site at any time.

STAFF COMMENT – Ongoing requirement – In compliance.

11. The site must be constructed and operated in conformance with county, state, and federal laws and regulations, including requirements for necessary permits. The following requirements are made pursuant to County Code, and/or state or federal laws and regulations:

- a. All non-tie outdoor storage must be screened. It is recommended that such storage be consolidated in a single area and provided with a screened fence.

STAFF COMMENT – Out of compliance. No screening has been installed for “non-tie” materials, though the applicant states that they are waiting until “groundwork” is done.

- b. No additional signage may be erected except as previously approved by the Planning Commission.

STAFF COMMENT – In compliance, since signage is not required. The previously proposed and approved signage has not been installed. The applicant provided a picture and indicates that it will be installed after dirt work is done.

- c. Landscaping is required by July 12, 2023. Two parking lot trees shall be provided near the office and irrigated. Street landscaping shall be provided at the entrance to Reno Highway and along Reno Highway frontage. Friction Zone landscaping shall be provided along the west property line (Hazen frontage). Landscaping may include signage, plants with irrigation, decorative rocks, boulders, decommissioned equipment of interest, etc.

STAFF COMMENT – Out of compliance. No parts of the landscaping or friction zone requirements have been met. The applicant indicates it will be done with the building.

- d. A seven (7) foot sound barrier, berm, or wall shall be provided along the west property line (Hazen Frontage) by July 12, 2023. The barrier shall be incorporated into the landscaping. A grading permit is required.

STAFF COMMENT – Out of compliance. No part of the sound barrier requirement has been implemented. The applicant indicates it will be done with the building.

- e. A parking area shall be provided for employees and visitors by July 12, 2023. There must be provided at least twenty-five parking spaces, and one must be ADA accessible (asphalt or concrete). If staffing increases in the future, parking shall be increased to provide one space per employee to the maximum number of employees scheduled to be working at any one period. All ADA requirements must be followed as it relates to the number of ADA accessible parking spaces.

STAFF COMMENT – Out of compliance. No part of the parking requirement has been implemented. The applicant indicates it will be done with the building.

- f. All lighting shall meet the Churchill County Code dark skies standards to direct lighting down, and screen it from upward or horizontal projection.

STAFF COMMENT – In compliance. Current lighting meets this requirement. Staff will check the lighting installed with the office when it is installed.

- g. Impact fees and water dedication requirements must be met.

STAFF COMMENT – Out of compliance. Since the applicant indicates that the building permit for the office will be submitted soon, Staff recommends that it is acceptable to collect fees at that time.

12. Operations shall be conducted in a manner that does not create a nuisance (public or private) under Nevada law or Churchill County Code.

STAFF COMMENT – In compliance. The operation of the facility is much safer since the permit was approved last year. Objectionable features to neighbors and the traveling public have been greatly reduced since the last permit, though objections to transloading rail cars

along the Hazen town frontage (across the street from homes) still remain. Note that such transloading is on railroad company property, not on the Omaha Track property. Rail car movement is under control of the railroad.

Director Spross stated that the department has received some information, and the applicant said that the building will be complete by the end of November 2023. He shared the staff recommendation that this permit be reviewed at the end of November with two conditions:

- (1) The Public Works Director will receive monthly progress reports from the applicant, so that he can determine that the progression of the building construction and deadline will be met, and if He feels that they will not meet that deadline, at that point in time, they may begin the revocation process, and
- (2) In the Fire Plan there were some milestones and conditions that had to be met in order for the applicant to increase the railroad ties. The most important one was that if the applicant wanted to exceed the 50,000 railroad ties, that the building that would house the two dedicated water trucks would be complete. At this point in time there are over 100,000 ties at the facility, and the building has not been started. It is also recommended by staff that effective immediately, no more ties get brought onto that property, and the tie quantity gets reduced to 50,000 until that building gets constructed.

James Soulia and Meg Ridge, representatives for Omaha Track at 1006 Nevada Street, Hazen, were available to speak regarding this application. Mr. Soulia stated that the Nevada Division of Environmental Protection (NDEP) halted all of their groundwork until all of the testing had been completed. They finally received the clearance letter two weeks ago. He further stated that the building has been purchased, and it is a 40' X 100' building that will consist of the shop to house the two water trucks. The one issue that he didn't know about until mentioned by Director Spross was the water truck issue. They did not go over their count without permission from the Fire Department. They are at 101,000 ties right now. They have a full-time security guard (24 hour service) that patrols the yard, which is one of their requirements. They have two water trucks that do not need to be housed in the summertime, and they will be housed in the winter to keep the water from freezing. James Soulia said that they can't reduce down to 50,000 ties and tell his customer, which is Union Pacific Railroad, that they can't bring in any more ties, and the amount of money they will invest in the yard; he doesn't know if that can work. What they are looking to invest in the Hazen yard is over \$1 million, not including what they have already done after the fire.

Chair Blakey said that he understands in the agreement from 2022 that they could only have 50,000 ties on the property at any given time if the water supply was not sufficient. He asked staff if this was correct. Director Spross pointed out that they could exceed 50,000 ties if the building was erected/completed. Chair Blakey then questioned if that was the only way that they could go over that amount. Director Spross continued that they could if the building was completed by the time of this meeting. There were two milestones that needed to be met: either the building had to be done before this meeting, or if they wanted to exceed the tie count of 50,000, the building had to be complete. Chair Blakey inquired whose decision it would be to allow an increase to the tie count—the County or the fire department. Director Spross indicated that once the building was up they are allowed up to 150,000 ties as it was written, but the building had to be erected and complete. Chair Blakey, speaking to James Soulia, clarified that on the property at this moment there are 101,000 ties and had permission from the fire department to do so. Is that correct? Mr. Soulia agreed and added that everything that they have done up to this point has been at the guidance of the fire department. They come out to visit the site weekly. They had asked if it was okay with the two water trucks onsite without the building since they hadn't been allowed to start construction for it.

Chair Blakey asked if there was anything in writing from the fire department allowing this increase in the number of ties. Meg Ridge responded that there isn't anything in writing. When Mitch Young, Fire Marshal, was at the site a few months ago, Meg said that she explained where they were in regarding meeting the requirements and Mitch was supposed to speak with the department and get back with her, but she hasn't heard anything back. Members of the fire department were out last Friday and this Monday, and they are aware of the tie count. They indicated that Omaha Track was doing everything that they had asked, and they have no problems with what they are doing. Chair Blakey then questioned if the tie count exceeded 50,000 at any time before speaking with the fire department. Meg Ridge replied that it had not to her knowledge. As soon as they were at that limit, she let them know and was in contact with Loreli LeBaron, Code Compliance Official. Chair Blakey asked Director Spross if the fire department communicated with him verbally or in writing about having an agreement with Omaha Track. Director Spross responded that he called the fire department on Friday and asked them to visit the site. He met with them today. Unfortunately, Mitch Young has been the one to go out and do the site visits, and he is on vacation. There were several pictures taken that show the ties exceeding the limits of the storage areas. He knows that over the last several months there have been some storage areas that have been added. They are kind of difficult to see, and the County has requested that the poles be painted yellow, so that they would be easy to see from the highway. That wasn't done. Lately, several of the storage piles have exceeded the ends of the allowable storage. Director Spross expressed his concern that the applicant had stated that they didn't want to put money into the property until NDEP had cleared the investigation to make sure that there were no contaminated soil. On May 1st, we received an inventory from Meg that stated they had 37,000 ties, and then on June 9th we received the May inventory indicating they were at 62,000 ties. They had exceeded the allowable inventory before they received the letter from NDEP. They were already proceeding with exceeding the 50,000 limit knowing that they weren't going to put that building up until they received the letter from NDEP. It continued to grow. On July 3rd we got June's inventory showing they were at 83,000. When the fire department went out on Friday, they were at 97,000, and as heard from the applicant at this meeting they are now at 101,000. Director Spross remarked that we put these conditions in place because of what happened last July, these conditions were agreed to, the applicant understood that they could not exceed the 50,000 ties limit, and if they were waiting on a response from NDEP before they would invest any money in that site, he believes that they should have stayed below the 50,000 ties. The applicant continued to grow that inventory regardless of what the conditions had stated. James Soulia refuted that they went over 50,000 ties with no regard to the County or community, and that is furthest from the truth. There is a fire plan that was put in place and implemented in December 2022. Every part of that fire plan has been organized, planned, and followed. The building is not up to house two water trucks. That is the only thing that has not happened. They didn't wait for NDEP to give them a clearance. They were moving ahead at all times. NDEP kept showing up and telling them areas that they could not cover, touch, or disturb. At that time NDEP thought the water might be contaminated, and they wouldn't let them do any more improvements. This all happened in December after the permit was approved in July 2022. They only had a six-month timeframe from the approval of the stipulated agreement and fire plan to do any of the work before this review. It was never Omaha Tracks' intention to do anything behind anyone's back. This is why they worked with Mitch Young to make sure that things were as they should be. This is the reason they have the full-time security guard because it was a requirement for going over 50,000 ties. Mr. Soulia reiterated that the SUP stated that they could go up to 150,000 ties, and the only thing that they do not have is a heated garage for two water trucks during the winter. They have all of the water trucks

and have done everything that they have been asked to do. As far as the columns go, they are painted yellow and if they are not bright enough, he can have them painted brighter. The reason that they are out of compliance with the ties as far as where the poles are, is because when Mitch Young and his group created that plan, they created it for 150,000 ties. The plan itself and the way that they have to lay it out according to the fire department's recommendation will only hold 96,000 ties. There is no other place based upon what is recommended with 200' between tie stacks, 400' in front of all of the tie stacks, and to stay away from a fuel line and a water ditch. He said that they are confined to one little, tiny area. They have put themselves into this issue. At no time were they ever disrespectful or trying to do something against the requirements. Mr. Soulia pointed out that Meg Ridge works with everyone. If this had been an issue and brought to their attention, then something could have been done, but they didn't go over the 50,000 with no intention of ever building. Meg Ridge added that when they got to be out of compliance, she had spoken to Loreli and Mitch, and they both said that if something happens, just send an email letting us know and they can go from there. Every time that happened, she reached out and let them know. They thanked her and asked when they would be back into compliance. Ms. Ridge further explained that they have contractors that grade all of the ties for them, and they normally have four to five working at a time. Unfortunately, in the last few weeks, two of their machines went down, and one went home for personal reasons. She went from four banders to one. Production obviously slowed down. She is now back up to four banders, and she will have another one on Friday. She had shared this with Loreli, and let her know that as soon as she can see what the rate of production will be she can let Loreli know how long it will take to get back into compliance as far as the rows.

Chair Blakey restated that there is a clear understanding regarding the agreement was 50,000 ties on the property with appropriate water and the appropriate building. As he understands, going over 50,000 is tied to the construction of the building, not just the water. Mr. Soulia confirmed that to be correct, but it was also speculated that Mitch was in charge of that, and if they worked with him and he had other ideas, they could do that. It is also written in the fire plan that he has to have a 24-hour fire protection system that is electronic, that would call 911 and dispatch people out. With Mitch's guidance, he said that they can have a full-time security guard that will do the same thing. Mitch wasn't overriding his own plan, but he was helping them be able to work through what they could do at the time. He reiterated that everything was guided by Mitch. Director Spross clarified that he didn't say that Mr. Soulia did this with disregard to the community; he said that it was done with disregard to what was written in the agreement. This was written in the stipulated agreement. The item regarding the fire detection system included, "or a fire watchman for non-working hours, have to be implemented." This wasn't something that Mitch changed in the agreement to allow you to have the fire watchman; it was permitted in the agreement. Director Spross did acknowledge how well Meg and Mitch have been working together to make sure things are being done. Ultimately, there are a set of conditions in the agreement and the conditions of approval that need to be met, and some of those have not been met. James Soulia expressed his frustration that no one contacted them when they were notified that the tie county went over 50,000. The County knew about it, Mitch knew about it, and they got permission to do it even though the building wasn't there. Why did no one just tell them they couldn't do it? It seems to him that they were being told that they could go ahead, and then everyone just watched to see how bad they fail. They kept talking to Mitch, and he kept saying that everything looks great, keep going, and they don't have an issue with it. If there was an issue with it, they would have put up a Quonset building up and parked the trucks under it. Director Spross noted that the office and the shop that is required in the stipulated agreement was also a condition for approval in the SUP that was granted in July 2022. There was some discussion

regarding the office and the shop, and Mr. Soulia explained that the office would have been up if he didn't have the disaster that they had. Chair Blakey expressed that the commission understands everyone's concerns and both sides of this scenario. The agreement was made by Omaha Track to only have 50,000 ties on the property, and Mr. Soulia knew that. Chair Blakey asked if Mitch Young had the authority to increase the limit of ties, and Director Spross responded that he could make adjustments based upon the safety of the site. Dean Patterson remarked that he texted Mitch Young, and Mr. Young responded that he has been trying to work with them since they are temporarily over 50,000 ties. It wasn't an agreement to stay over that limit without all of the items listed in the agreement. He was apparently working with them on a temporary basis, and then it would go back down to the limit set until the building was completed. Chair Blakey asked if Loreli LeBaron, Code Compliance Official, had anything to add. Loreli reiterated from the Fire Safety Plan, "as an alternative to early fire detection system, a fire watchman may be employed to monitor the facility for fire during non-operational hours. The fire watchman may not have competing duties that would inhibit the ability to perform the function of a fire watchman." This is in lieu of a fire detection system; however, it does not negate the conditions of the special use permit. She did applaud Omaha Track for the open communication they have had with situations that are beyond their control. As a fire safety prevention measure, it was to get the ties down to 50,000 eventually. They have tried to work with Omaha Track in these situations to monitor the tie count. It is important that they keep the fire watchman on the site during the times they are over 50,000.

Joseph Sanford, Deputy District Attorney—Civil, added for clarity that the stipulated agreement has two pieces as it relates to tie quantity. The first is condition number two, which sets the limit at 150,000 ties, and that condition is in compliance. The second condition related to the number of ties is actually part of the Fire Safety Plan. This plan is developed by the Fire Marshal, and it can be amended by the Fire Marshal if that is his intention. That would affect the special use permit. He thinks that a question that should be answered at this time is if the decision was made that they may temporarily go over 50,000 ties, was there a plan with a timeline to get the quantity back down to that limit. Another consideration is where there is a requirement for a building when that building should be completed. What are the fire concerns going to be if the building hasn't been constructed by the end of November when freezing temperatures are more likely? James Soulia responded that they have set the goal to have the building completed by November. Originally, the purpose of the building was to keep the water trucks from freezing, so they can be full in case there is a fire in the middle of winter. That is why they set it up this way. Since the state gave them a clearance from further environmental testing, they are expediting the construction of the building, roads, and landscaping requirements. They have purchased the building and are in the process of putting the plans together and filing for the permit. They set a goal to have that ready by November, so that they can park the two water trucks in there, as well as have the offices as part of it. He requests that they be allowed to continue with the SUP the way that they are, and if we need to reconvene in November to see that the building has been completed to house the water trucks, then he doesn't see an issue with that. If it would satisfy the issue, he could buy a small Quonset hut and put the trucks in there now. He stated that these trucks are being used right now to help keep the dust down. Meg Ridge pointed out that in November the tie count will also be reduced significantly because this is the busy season right now.

Chair Blakey remarked that the commission now understands that the Fire Marshal can exceed the limit. He inquired if Omaha Track has anything in writing that tells them that they can go above the 50,000 ties. This would be something good to have moving forward, and he recommended that they contact the Fire Marshal and get his decision in writing. There was some

discussion on who should be included in correspondence and discussions related to tie counts and progress. Chair Blakey reiterated that they understand where they are and their situation, and he requested that Omaha Track provide something in writing outlining what the Fire Marshal has approved that has superseded the agreement and that he has no concerns. There was discussion that he is out on vacation at this time, and James Soulia asked if they could wait until he returns to complete this. There was a little more said about what was supposed to happen that wasn't followed through on the Fire Marshal's end and no follow up on Omaha Track's side. There was some discussion about when the building would be completed in order to schedule a follow up review, and it was determined that Omaha Track would plan to be completed with the building by the first part of November in order to have the review on the November 8, 2023 meeting.

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

Member Picotte feels like there is a place for the Fire Marshal to make some comments, and he suggested putting this on the schedule for the next month to give him a chance to be here. He thinks that pushing this out and waiting for the building to be done without knowing what the Fire Marshal's full input is on this situation is not a good idea.

Member Hyde remarked that he did a little study on Omaha Track. The Planning Commission does take the position that we want the company to be successful. He was interested in their core values and mission statement. One of the core values is safety, and in the mission statement it talks about integrity. He looks at the staff that does a lot of work reviewing applications, and when they make recommendations that aren't followed it makes him wonder about the integrity of the company. There are 19 requirements in total, and 7 of these are out of compliance. The tallest pole in this tent is the building, and these other ones could be taken care of rather easily by November 8th. Have they submitted a plan to the Building Department? James Soulia answered in the negative. What is the timeline for getting this done? Mr. Soulia said they just got the information from the soil samples back in order to plan for the concrete foundation work that needs to be done. The engineer is working on the plans for submittal. The building is a kit model with some basic plans for erecting the exterior; however, with the addition of offices, bathrooms, and other things inside the building, it had to go to an engineer. He plans to be in Omaha next week and plans to have the permit system started by the end of that week. Member Hyde then questioned if they see any challenge to meet the other conditions that are not in compliance. James Soulia didn't see any issues with the landscaping ones, and the other ones won't be complete until they get the building up. He further stated that once the building has been completed, they would need to do the blacktop work, and he doesn't think that could be done in the wintertime. If they could do gravel, there would still be an ADA parking and 25 parking spaces. Member Hyde appreciated the clarification regarding the quantity of ties that was provided because he wasn't aware that the Fire Marshal had the authority to allow them to exceed the 50,000 ties. There was some discussion with the applicants, staff, code compliance, and commission members related to what the Fire Plan actually stated. Mr. Soulia said that he understood that as long as he was in compliance with the Fire Plan and Mitch Young had okayed that he didn't have to wait for the building before being allowed to exceed the 50,000 ties. His understanding is that the purpose of the building is to keep the water from freezing that would be in the water trucks. Director Spross reiterated that Mitch Young has been working with them as we all have been when they have situations come up, and can state whether he believes that the systems in place at that time are sufficient to satisfy the potential fire need. But he doesn't believe that Mr. Young was giving a go ahead to just ramp up production to the 150,000 without the building onsite. It is, as he understands, a temporary okay until the situation is rectified. Chair Blakey wanted to clarify that the building was

also part of the SUP. Dean Patterson, Senior Planner, concurred that Mitch Young has been on vacation, and there has been a lack of communication regarding this. There was some alarm that the number of ties had doubled in a very short period of time without really knowing that it was going to be temporary. It is good to hear that Omaha Track's intent is to get it back into compliance with the 50,000 limit. He clarified about the condition of approval included the construction of the building at the one-year permit review. That item has not been met at this time, and, ultimately, the Planning Commission has an option, and the staff recommends giving some additional time until November to be in compliance with the conditions of the permit. Director Spross also stated that the Fire Plan stipulates that some effort had to be made to start the building from the beginning and during the time between 0-50,000 ties.

Member Bunyard expressed his understanding that there were some things out of compliance because they were waiting on the building, such as landscaping and road. He believes that an office building was a requirement from the SUP over a year ago. Director Spross confirmed that the office building was part of the SUP and not part of the stipulated agreement. Member Bunyard questioned if the only reason the office building wasn't done is due to the NDEP environmental testing. He knows that nothing had been completed with the prior SUP as far as construction went. James Soulia responded that from July through November the yard was inoperable, so they weren't focused on building; they were focused on cleaning up the debris. They didn't do anything until after winter, which is when he believes they purchased the building. They were ready to go with the building as soon as the frost broke, but that is when the State of Nevada stepped in and halted everything. They were waiting for the clearance from them. Member Bunyard verified that they just got the clearance two weeks ago to which they responded in the affirmative. He further asked if they provided that to the department. Meg Ridge remarked that it should be part of the packet they were provided. James Soulia, going back to the comment from Member Hyde about their core values, said that they were very concerned about the residents in the area and wanted to be sure that everything was taken care of regarding any contaminants. Member Bunyard believes it was at an October or December meeting when they set all of this in place and accepted the Fire Plan and agreement. That was a big stipulation, and that is why we had this review set up for now to see the progress with the conditions. He knows that there has been some progress, such as with the poles for the stacks and adding the fire trucks and fire watchman. He inquired if they see that they will have 100% compliance when they meet in November. Meg Ridge replied that she would like to say that they will. She further explained that when they had the meeting in December they were not aware that NDEP was going to come back to say that they needed to more testing. At that point they assumed that they would move forward. They got the clearance on June 30, 2023, so within two and a half weeks they have purchased the building, have two quotes for fencing with screening, and they have contactors lined up. They are just waiting for this meeting before starting to move forward with the contractors. She said that they already have a company ready to erect the building, and Member Bunyard asked if they have a contract in place on that yet. Meg Ridge said that Clint Jensen is the one they have. James Soulia noted that Meg had already purchased the fencing to be installed, and then the state stepped in and told them that they couldn't put anything on the property because if the water had come back contaminated, it would have changed everything. Member Bunyard recommended, so that everyone doesn't come back in November and having the same discussion as tonight, that if there is something that they do not think that they can comply with, he would like to know now, rather than later. Mr. Soulia stated that if he didn't already have the building, it would be a little harder because purchasing these buildings is so far out, but they were able to get it from a local guy. There is another gentleman that couldn't put his

building up because he didn't have water on the property, so they were able to purchase the building from him and get his contractor to put it up. They would like to get all of their machines out of the weather, too. Member Bunyard asked how long it would take for them to realistically get back to the 50,000 tie limit. James Soulia responded that these rail yards are kind of ebb and flow. It goes by where the crews are located. Right now, there are three crews in this area, so those ties are being shipped to this yard. He was talking to Union Pacific and two of those crews are getting ready to leave. He pointed out the yellow object in the siding as shown in the photo provided is heading to Roseville. He knows there will be a lull in what they are doing at the yard. They process 2,000-2,500 ties per day to ship out, and then they have no scrap on the property. They are no longer a scrapyard, and they do not hold onto ties. Ties get sorted and then go to different locations, and they are no longer left on the site. Right now they have a heavy influx of traffic, and their goal is to be back where they need to be way before November. Member Bunyard reiterated that as part of this they set the 50,000 limit, and they understand if it goes to 62,000 and back to 48,000, and so on. He pointed out that right now they are at double the limit. James Soulia apologized and said that if there was an issue, he would have welcomed someone to tell him before now. The way that they read the Fire Plan was 50,000 ties, and then to go above the 50,000 they needed to meet the next steps, which they did when they hired the full-time fire watchman and had the two water trucks. Prior to 50,000 they only had to have one water truck, and they've had two water trucks from the beginning. They found that water was the biggest issue when the fire did happen because there was nowhere to get water. Member Bunyard, based on an observation of the photos provided, noted that they may not be able to increase the inventory much more. You wouldn't be able to get up to the 150,000 ties based upon the current Fire Plan, is that correct? Mr. Soulia concurred that with the way the yard is laid out they wouldn't be able to have a lot of inventory. This is why they are currently past the pole markers. They have been working with Mitch Young because when they designed the yard it was for 150,000 ties. They can't get to that point based upon the regulations that were set with distance between stacks, height, and length. They may need to hire an engineer to look at the logistics for better options. Meg Ridge pointed out that everyone keeps going to the 50,000 limit. They were approved for 150,000 ties with the SUP, and as they move forward the number of ties will decrease, the building will be constructed, and then they would be able to go up to 150,000 at that point. Director Spross remarked that this was supposed to be a temporary situation and they say that they are going to decrease the numbers; however, on the monthly reports he has only seen them continue to rise. He can only go by the reports that he sees, so he has seen that the building isn't up, they aren't reducing the number of ties in the meantime, and the quantity keeps increasing rapidly. Chair Blakey restated that as part of the agreement and regardless of having a fire watchman they were not to go over 50,000 ties until the building had been constructed. He acknowledged where we are currently and urged the applicants to do whatever they need to do to get it back to 50,000 or fewer ties until the building is signed off with a certificate of occupancy.

Mitch Young, Fire Marshal, Churchill County Fire Department, came to the meeting after being contacted by the department in order to discuss the Fire Protection Plan as it relates to the current situation with Omaha Track. Chair Blakey pointed out that Omaha Track is here for the one-year review for their special use permit, and the commissioners are planning to move the review to the November meeting because the building is not built. It has come to their attention that Omaha Track is not in compliance with some of the items from their special use permit, but some of these are not in compliance because the building has not been construction, which they understand. One of the issues they have is that they are over the 50,000 limit without the building that is tied to the SUP. They have explained that they have had labor shortage that may have contributed to the

overage of the number of ties. Joseph Sanford, Deputy District Attorney—Civil, shared that we have a Fire Protection Plan for the facility that outlines when and the certain order of steps that allows a certain quantity of ties to be on the property from a fire protection angle. There is a separate angle that relates to planning, and that is the 150,000 limit. The number of ties has risen to 101,000 in the last couple of days. Are you satisfied at this time that this is safe from a fire protection angle, and what do they need to do between now and November to continue to have fire protection met. Mr. Young asked Omaha Track if they had obtained the second fire suppression truck, and the applicants said that they had. He verified that they have three water trucks on site and the second is the same as the first. Meg Ridge confirmed that to be true—4,000 gallon with a cannon. Mitch Young outlined that in order to get up to the 50,000 they needed the second water truck. Mitch Young understood there was a problem from about two months ago that was going to cause them to go over the 50,000. He told them that they would have to have the night watch person, and as he understands they hired someone for that position. He has not gone out there during the night yet to make sure that someone is there. He was assuming this was a temporary situation that would be corrected in a week or two, and when they drop below the 50,000 they wouldn't have to continue with the night watch person. It was about two weeks ago, he was going through Hazen and noticed a rapid increase of the number of ties that were there. He noticed that they were overflowing on the ends, so that is a violation of the agreement because they are supposed to be maintained within those stacks. As far as the building goes, it is to house the two water trucks that are there. It is supposed to be a conditioned building, so that the water trucks can be inside, full of water, and ready to go at any point in time. Whether it is the office building or the second building. He just wants to make sure that those trucks are being protected inside the building from freezing. At this point, that is a lot of railroad ties, and he would like to take a look at the second water truck. If the commission is considering moving this to November, that would be a good opportunity for him to go out and check some things out. He thinks that we need to be careful about letting this “can” keep getting kicked down the road. You need to make sure that everything is in place as it is supposed to be.

Member Picotte remarked that we are currently at 101,000 railroad ties. As he sits here from a community perspective when they went through the proceedings back in December, there was some question on how many railroad ties were in the facility in total. He recalls that it was about 75,000 ties at the time of the fire. Now there are 101,000, and it looks like there are considerably less than the amount prior to the fire. With the increase to 101,000 ties and only two water trucks, and if this were to happen again, where would we be regarding fire protection with 150,000. Mitch Young responded that part of the problem with the previous fire was time and distance. The purpose of the two water trucks onsite is to have them available with their drivers trained in how to operate those vehicles, how to run the pumps to fill them back up, and so on. They have set up their pump systems, and he has checked those. They have the gallons necessary to tide them over until the fire department can get there. Their goal is to prevent expansion if there is a fire. So if they can slow it down so that the fire doesn't have a half hour head start on the fire department, this is the basic reason they are requesting this. They are also using the separation of the stacks of ties in order to create a fire break for radiant heat, wind, cast off, and so on. The purpose of the water trucks isn't to completely extinguish the fire (it's great if they can), but it is to slow the progress of the fire until they can get there. They are equipped with deck guns that put out a lot of water rather quickly. The set up is fine. With the overflow of the “bins” they are cutting down the margins between the bins, and that is a concern to him. He urged them to get them back within the guides for the bins to create the correct area of separation. Director Spross clarified that the 75,000 ties that Member Picotte is

referring to were inventoried ties. He noted that there was a huge slash pile in the middle of the facility that was not inventoried, which is why we went to the cubic yards as suggested by the Fire Marshal. Now, there are no more slash piles. They contain everything in these 15 bins that they are allowed to have onsite. By taking the slash pile out of the equation, he believes that the two fire trucks that the Fire Marshal has asked to be at the facility are more than sufficient to handle the actual inventory ties that are in those stacks. Meg Ridge added that not only do they have the two water trucks, but they also have the two water tanks that each hold 20,000 gallons of water. Filling the trucks would be much faster if something were to happen. In their water tower, they have over 50,000 gallons of water onsite, ready to go.

Member Hyde inquired about a reduction of the number of ties. They are at 101,000 right now. He asked what that would look like over the next few weeks. Meg Ridge answered that with the four operators they have, they are averaging somewhere between 2,000 and 2,200 per day. They go through those, and they get sent out on the trucks or put them in the rail cars. She can't give a definite answer as to how long it would take to get the numbers back down to 50,000, but she assured the commissioners that they are working to get it down as quickly as possible. Member Hyde calculated that it could be about 60,000 in a month. Ms. Ridge said they are focusing on those bins where the ties are overflowing first to get them back into compliance. Chair Blakey asked if they are accepting more ties at this time, or has that stopped. Meg Ridge replied that they do have some sitting on the track right now. She isn't aware of any others coming in after that. Chair Blakey confirmed with the Fire Marshal that the water trucks for fire suppression are to be full of water 24 hours per day, seven days per week, unless there is a fire. Mitch Young agreed. Chair Blakey inquired if they could also be used to spray water on the lot to keep the dust down. Mr. Young responded that they could not. Chair Blakey asked if Omaha Track understands this because he remembers a comment earlier about using them to help keep the dust down on the site. It was stated that there were three water trucks on the site.

Chair Blakey called for public comment. There was none. He summarized that they are here to decide whether or not to extend this SUP until the November 2023 meeting for final completion and compliance with the regulations.

Member Hyde, based on the information provided and heard tonight, moved that the Omaha Track Special Use Permit be continued for review for compliance with conditions of approval and code requirements, and:
(a) will be reviewed again at the November 2023 meeting;
(b) the company shall provide monthly updates to the Public Works Director on its progress to meeting all requirements; and
(c) continued non-compliance at the next review may result in initiation of permit revocation.
Member Bunyard seconded the motion and the decision carried by unanimous vote (4-0).

9. Public Hearings:

- A. Consideration and possible action re: A special use permit application to expand a rail based services facility filed by Fernley Business Park, LLC, for property located at 11000 Reno Highway, Assessor's Parcel Numbers 009-251-77 and 009-251-78, consisting of 105.61 and 58.18 acres respectively in the Industrial zoning district. The applicant proposes to add track for a new rail siding for additional transloading.

Michael Jones, 11000 Reno Hwy, Hazen, and Tom Messmer, Industrial Realty Group at 2615 Palmetto, Tustin, California, were available to speak regarding this application.

Director Spross went over the application and explained some of the history and the other special use permit that was granted previously to them. This is an expansion of a rail based industrial park. He noted the parcel mapping history of the site, and that the Planning Commission recently recommended approval of another parcel map to create a couple of smaller lots as well as separate the larger parcels based upon the rail line. The proposed expansion will not interfere with the parcel map. Additional special use permitting may be required for future uses, high traffic uses, and so forth. He went over the requested plan and how it will either meet or not meet the criteria for the permit as stated in the Staff Report. For those criteria that are not met, he described how it may be mitigated. Director Spross stated that staff is recommending approval with the conditions of approval as follows:

1. Conditions of approval for the March 2021 Special Use Permit continue to apply and are applied to the proposed improvements, including consideration for future changes to parcel lines.
2. Rail spur construction is not authorized until the access road improvements required for the parcel map have been constructed or bonded. The main access road shall be maintained as a paved road, and any unpaved segments shall be paved.

Director Spross added that he received the improvement agreement today from the applicant, which will go in front of the Board of County Commissioners for approval in their August 2023 meeting. Should it be approved, the applicant would then go get their bond. They are in the process of providing financial security for the road improvements.

Dean Patterson, Senior Planner, shared that the person working on the Parcel Map has also submitted an application for an abandonment application for this driveway. Their objective is to change it from a public road to a private access easement. It shouldn't affect the fact that they will fix the road.

Chair Blakey inquired if the applicants have any questions or other discussion based upon the summary shared by Director Spross.

Tom Messmer talked about the road that needed to be paved, and he remembered this from the March 2021 meeting. He regrets not having already completed this requirement. This expansion does have an increase of 50% more truck traffic. They expect organic growth when they opened this business. It was just a propane farm. They began immediately transloading minerals for Dicaperl, and then grains and feeds for local farms and lava rock to be transported from local mines to Michigan. He shared how their business has grown over the years. Their goal is to bring more cars off of the sideline of the rail into their facility, so that they can load and unload in a more efficient manner since the railroad is less consistent with its movement of cars.

Michael Jones said that the increased truck traffic with this expansion isn't really "new" transportation coming onto the site; it is just going to be additional hours that they will be able to operate for the same trucks to make more frequent deliveries. He further added that he recently received two quotes from a paving company—one from the edge of the road to their gate (7,400 sq ft) and all of the way down that road (36,000 sq ft). He wasn't sure what the County was requiring. Director Spross said that it would include the entire length of the road, which is included in the improvement agreement that was received today. He went over the process for the agreement approval and then the bond for the work to be completed.

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

Member Picotte questioned staff if there is adequate access to this facility and whether or not NDOT (Nevada Department of Transportation) would require any kind of approval before going

forward. Director Spross noted that it is a very well-constructed driveway from an existing NDOT approach. At one time there was a considerable amount of truck traffic that was coming out of that industry when it was an emulsion plant at one point in time. It is the staff's belief that the extra truck traffic isn't going to have a substantial impact. When turning east and west, there are acceleration lanes. Dean Patterson remarked that NDOT was notified for this application as well as in the last application. At that time, they indicated that their facilities were adequate. Chair Blakey stated that the commission will keep recommended condition 2 in place since it has not been completed.

Chair Blakey called for public comment, and there were none.

Chair Blakey called for a motion.

Member Picotte, based on the information provided in the application, in the staff report, and heard tonight, moved that the findings have been met for conformance with the criteria found in CCC 16.08.080(H) on APNs 009-251-77 & 009-251-78, as described in the Staff Report. Member Hyde seconded the motion and the decision carried by unanimous vote (4-0).

Member Bunyard, based on the previously adopted findings made for this project, moved to the Special Use Permit application for Fernley Business Park to authorize an expansion of a Rail-Based Industrial Park on APNs 009-251-77 & 009-251-78. This approval is subject to conditions, as listed in the Staff Report. Member Picotte 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 you for further permitting procedures.

B. Consideration and possible action re: **Bill 2023-A Ordinance 32** - TITLE: AN ORDINANCE AMENDING PROVISIONS OF TITLE 16 CONSOLIDATED DEVELOPMENT CODE OF THE CHURCHILL COUNTY CODE

SUMMARY: THIS ORDINANCE AMENDS PROVISIONS OF TITLE 16 CONCERNING THE CONSOLIDATED DEVELOPMENT CODE. IT AMENDS THE USE TABLE FOR ZONING DISTRICTS TO CLARIFY THE ZONES IN WHICH CERTAIN VEHICLES AND VEHICLE ACCESSORIES MAY BE SOLD, ESTABLISHES THE PERMITTING PROCESS UNDER WHICH CERTAIN VEHICLE AND VEHICLE ACCESSORIES MAY BE SOLD, AND PROVIDES FOR OTHER MATTERS RELATED THERETO.

Joseph Sanford, Deputy District Attorney—Civil, explained that this ordinance is brought to you for consideration and recommendation to the Board of County Commissioners. The essential function of this ordinance is to provide some granularity between smaller vehicles, passenger vehicles, RVs and then commercial and construction vehicles. At present our code in the use table provide two layers or points where you would determine what zoning is allowed for a vehicle. Smaller, passenger vehicles are zoned for a zoning review in the C-1, C-2 and Industrial districts. Anything other than that, such as large vehicles, including RVs, moving trucks, construction equipment, and commercial vehicles are all in the Large Vehicle category, and those require a special use permit and only allowed in the C-2 and Industrial zoning districts. There have been a

couple of questions related to expanding this use. Staff has reviewed the requests and has determined that by adding a second or third category that would address specialized vehicles, specifically, RVs, motorhomes, campers, moving trucks, dump trailers, and horse trailers, and placing them in a separate zoning district than the commercial vehicles and construction vehicles, more adequately represents the needs of the community. The recommendation at this time is to create three sections:

- The small vehicle section has been amended to be called “standard vehicles”, which would include passenger vehicles, ATVs, motorcycles, trailers, and the like. These will remain a zoning review in the C-1, C-2, and Industrial zones. This shouldn’t have an impact on people who are already performing those uses.
- There will be a new section for “specialized vehicles or trailers”, which will include RVs, motorhomes, campers, moving trucks, dump trailers, and horse trailers. These will all be set to require an administrative special use permit in the C-1, C-2, and Industrial zones. An administrative special use permit is sort of in between a zoning review, which is something that the department would just review to ensure setbacks and things like that are met. This would allow for conditions to be placed by the Director, but it wouldn’t come before the Planning Commission.
- The large vehicles will be amended to “commercial or construction trailer and equipment” section. This would be largely the same as it is currently, but it would remove some of those medium-sized objects, includes commercial vehicles, cargo containers, and large construction equipment would still remain in this category, and that would still require a special use permit.

Some of these uses are not currently described in our code, such as horse trailers and dump trailers, so we are trying to get ahead of that to a certain degree as well.

Chair Blakey asked if any of the commissioners had any questions or discussion. There were none.

Chair Blakey called for public comment. None were heard.

Chair Blakey called for a motion.

Member Bunyard, based on the information provided in the packet materials, in the staff report, and heard tonight, moved that the findings have been met for conformance with the criteria found in CCC 16.08.060(E)2 regarding a County Code Amendment to modify the Use Table and definitions for vehicle sales and rental. Member Hyde seconded the motion and the decision carried by unanimous vote (4-0).

Member Bunyard, based on the previously adopted findings made for this project, moved to recommend that the Board of County Commissioners approve Bill 2023-A amending the Churchill County Code to modify the Use Table and definitions for vehicle sales and rental. Member Picotte seconded the motion and the decision carried by unanimous vote (4-0).

10. Action Item: There were none.

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 special use permit previously granted to Marlene Holmes for property located at 4755 Silver Sage Lane, Assessor's Parcel Number 006-811-60, for a horse boarding operation based upon information in the application. A new special use permit has been granted for an expanded horse boarding operation by the Board of County Commissioners, which supersedes this permit; therefore, the previous permit is no longer needed.

Member Bunyard moved to approve the consent agenda as submitted. Member Hyde 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 8:59 p.m.

14. Appendix:

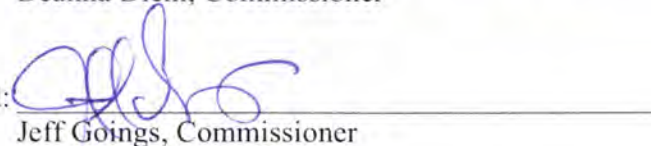
Supporting Documentation

Approved: 
Eric Blakey, Chair

Approved: NOT AVAILABLE
Scott Nelson, Vice Chair

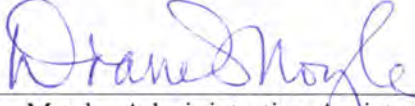
Approved: 
Zack Bunyard, Commissioner

Approved: 
Deanna Diehl, Commissioner

Approved: 
Jeff Goings, Commissioner

Approved: 
R. Mark Hyde, Commissioner

Approved: 
Paul Picotte, Commissioner

ATTEST:

Diane Moyle, Administrative Assistant

Application:	1-year review of <u>Special Use Permit</u>	Use Listing:	<u>Rail Based Services Facility</u>
Applicant:	<u>Omaha Track</u>	Owner:	<u>TRP Properties</u>
Site:	1006 Nevada St. (3 parcels: APN 009-251-74, -86, & -88) – 121.23 acres (total)		
Designations:	Master Plan - Industrial & Hazen Planning Area // Zoning – Industrial & A-10		

Background: The following background summary is taken from the staff report for the July 2022 permit.

The subject property is currently being operated by Omaha Track, primarily for its railroad tie sorting operation. The site includes smaller functions such as handling railroad steel (track, fasteners, etc.) The facility requires a Special Use Permit on multiple grounds. Rail-based services require an SUP. And uses that may impact public health and safety require a SUP. This facility will store large quantities of very flammable creosote coated rail ties outside where they are more susceptible to combustion.

The operation started up in mid-2017 with the understanding that it would eventually obtain a Special Use Permit (SUP). The applicant did not pursue the SUP until prompted by the Planning Director after receiving complaints by neighbors, TCID, Fire Marshal and the traveling public. At that time extreme levels of stacking railroad ties had occurred, likely with more than a half million ties. It was understood early on that a road maintenance agreement would be needed, but that was deferred to the SUP process.

In March 2019, an SUP was approved with most of the operations being east of the railroad “triangle” described under the ***Site*** heading, below, with all operations located on the two east-most parcels. The west parcel, adjacent to the community of Hazen, was labeled as a buffer between Hazen and site operations. In June 2019, the company requested an alteration to the SUP to allow use of a portion of the west parcel lying east of the main site road (running from the site entrance SE through the west-most parcel). Subsequently, the company has requested to place minor site elements west of the road, such as the well and water tank. Note that current plans continue to propose additional operations west of the site road. In addition, it was learned that a substantial amount of rail steel (track and fasteners) was being stored north of the track, which was not part of the previous SUP.

The current application results from the fact that the previous SUP had a layout that was never implemented - so it essentially expired. This application proposes a different layout that more simply permits the existing operations, with some new, short-term facilities installation, such as a permanent office.

Recent Permitting & 1-Year Review - The current Special Use Permit was issued in July 2022. Shortly after approval, a fire at the facility consumed almost the entire stock of ties. The County initiated the revocation proceedings in order to modify the conditions of approval, especially to incorporate many more fire protection measures. The result was a Stipulated Agreement with revised conditions of approval that was approved by the Planning Commission in December 2022. This 1-year review is a condition based on the July 2022 date.

The point of a 1-year review is to ensure that code requirements and conditions of approval are met. If the project is not in compliance, it may result in the initiation of permit revocation proceedings. Omaha Track has provided a status report on meeting the requirements, including support materials for progress on some items. The conditions of approval are provided below along with Staff comments on their completion. Many conditions have not been completed. From conversations with the site manager, it appears that the company did not want to invest in constructing facilities required by the conditions of approval until they received clearance from NDEP that the site was not contaminated. A letter from NDEP dated June 30, 2023 was provided.

Stipulated Agreement Conditions of Approval.

1. This permit is subject to review/renewal on or about July 12, 2023, to ensure compliance with County Code and the conditions of the Special Use Permit. Except where otherwise stated, all conditions are effective immediately upon approval by the Planning Commission.

STAFF COMMENT – This Planning Commission review is in response to this condition. As noted below, some conditions have not been completed.

2. The facility shall operate within a limit of 150,000 railroad ties, equivalent to 30,000 CY of combustible material, stored on-site at one time. All railroad ties must be stored within designated storage zones in a manner substantially similar to that shown in the site plan, attached as Exhibit A.

STAFF COMMENT – In compliance, though there are other limits on numbers of ties that are out of compliance, as noted below.

3. There shall be no material storage north of the mainline.

STAFF COMMENT – In compliance. The applicant indicates that materials north of the tracks have been moved to the main operations area.

4. There shall be no rail spur expansion on Lot 3.

STAFF COMMENT – Ongoing requirement – In compliance.

5. There shall be no material handling or storage on the portion of Lot 1 west of the site road (adjacent to Hazen).

STAFF COMMENT – Ongoing requirement – In compliance.

6. The operation of the rail yard across parcel lines is permitted. Building construction is not allowed across property lines. 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.

STAFF COMMENT – Ongoing requirement – In compliance.

7. Dust and mud track out onto roads shall be controlled by providing an all-weather driving surface (gravel, paving, etc.) for all driving paths used in the operation, including roads, driveways, parking lots, and loading areas. General dust abatement on-site shall be provided by wood chips/shards, water, and dust palliatives.

STAFF COMMENT – Out of compliance. Only the old highway roadbed is graveled. No changes have been made for this requirement, though the applicant states there are plans to do so with the building construction.

8. The applicant shall abide by the road agreement with the County Road Department regarding the use and maintenance of Nevada Street and the use of Hazen Avenue.

STAFF COMMENT – Ongoing requirement – In compliance.

9. The applicant shall comply with the written Fire Protection Plan ("Plan") signed by the Fire Marshal, and shall implement the Plan in accordance with the schedule authorized by the Fire Marshall as shown in Exhibit B. The Fire Marshal may require updates to the Plan to ensure the fire safety of employees and the public. Applicant shall implement all updated requirements within thirty (30) days of requirement by the Fire Marshall.

STAFF COMMENT – Out of compliance. While most Fire Protection Plan requirements have been implemented, the most important item has not been implemented - construction of the office and shop to provide a freeze-proof location to store water trucks. It is tied to the allowance for increasing the number of stored ties over 50,000 AND no later than this annual review. Ties have recently exceeded this limit, the 1-year review has arrived, and no building has been constructed.

NOTE that the office and restrooms are also required for a permanent place of business.

10. Scrap materials shall be stored in containers as set forth in the Plan. Debris and scrap materials shall not accumulate in substantial quantities on the site. Containers must be shipped out within 90 days of being filled with material. There shall be no more than fifteen (15) containers on site at any time.

STAFF COMMENT – Ongoing requirement – In compliance.

11. The site must be constructed and operated in conformance with county, state, and federal laws and regulations, including requirements for necessary permits. The following requirements are made pursuant to County Code, and/or state or federal laws and regulations:

- a. All non-tie outdoor storage must be screened. It is recommended that such storage be consolidated in a single area and provided with a screened fence.

STAFF COMMENT – Out of compliance. No screening has been installed for “non-tie” materials, though the applicant states that they are waiting until “groundwork” is done.

- b. No additional signage may be erected except as previously approved by the Planning Commission.

STAFF COMMENT – In compliance, since signage is not required. The previously proposed and approved signage has not been installed. The applicant provided a picture and indicates that it will be installed after dirt work is done.

- c. Landscaping is required by July 12, 2023. Two parking lot trees shall be provided near the office and irrigated. Street landscaping shall be provided at the entrance to Reno Highway and along Reno Highway frontage. Friction Zone landscaping shall be provided along the west property line (Hazen frontage). Landscaping may include signage, plants with irrigation, decorative rocks, boulders, decommissioned equipment of interest, etc.

STAFF COMMENT – Out of compliance. No parts of the landscaping or friction zone requirements have been met. The applicant indicates it will be done with the building.

- d. A seven (7) foot sound barrier, berm, or wall shall be provided along the west property line (Hazen Frontage) by July 12, 2023. The barrier shall be incorporated into the landscaping. A grading permit is required.

STAFF COMMENT – Out of compliance. No part of the sound barrier requirement has been implemented. The applicant indicates it will be done with the building.

- e. A parking area shall be provided for employees and visitors by July 12, 2023. There must be provided at least twenty-five parking spaces, and one must be ADA accessible (asphalt or concrete). If staffing increases in the future, parking shall be increased to provide one space per employee to the maximum number of employees scheduled to be working at any one

period. All ADA requirements must be followed as it relates to the number of ADA accessible parking spaces.

STAFF COMMENT – Out of compliance. No part of the parking requirement has been implemented. The applicant indicates it will be done with the building.

- f. All lighting shall meet the Churchill County Code dark skies standards to direct lighting down, and screen it from upward or horizontal projection.

STAFF COMMENT – In compliance. Current lighting meets this requirement. Staff will check the lighting installed with the office when it is installed.

- g. Impact fees and water dedication requirements must be met.

STAFF COMMENT – Out of compliance. Since the applicant indicates that the building permit for the office will be submitted soon, Staff recommends that it is acceptable to collect fees at that time.

- 12. Operations shall be conducted in a manner that does not create a nuisance (public or private) under Nevada law or Churchill County Code.

STAFF COMMENT – In compliance. The operation of the facility is much safer since the permit was approved last year. Objectionable features to neighbors and the traveling public have been greatly reduced since the last permit, though objections to transloading rail cars along the Hazen town frontage (across the street from homes) still remain. Note that such transloading is on railroad company property, not on the Omaha Track property. Rail car movement is under control of the railroad.

Staff Recommendation: **EXTEND REVIEW TO NOVEMBER MEETING.**

RECOMMENDED MOTION: The motion should be modified by the Planning Commission as needed.

- ☐ Based on the information provided in the staff report, and heard tonight, I move that the Omaha Track Special Use Permit needs continued review for compliance with conditions of approval and code requirements, and:
 - (a) will be reviewed again at the November 2023 meeting;
 - (b) the company shall provide monthly updates to the Public Works Director on its progress to meeting all requirements; and
 - (c) continued non-compliance at the next review may result in initiation of permit revocation.

Application:	<u>Special Use Permit</u>	Use Listing:	<u>Rail-Based Industrial Park (expansion)</u>
Representative:	Bill Staab	Owner:	Fernley Business Park, LLC/ Industrial Realty Group
Site:	11000 Reno Highway <i>[Addresses will <u>change</u> soon to match Co. system]</i> APN 009-251-77 – 105.61 acres w/approx. 21 acres on west side of railroad tracks. APN 009-251-78 – 58.18 acres on west side of tracks. <i>[APNs will <u>change</u> soon - Parcel Map is approved for new lots on west side of tracks]</i>		
Designations:	Master Plan – Industrial & Hazen-Swingle Bench Planning Area Zoning – Industrial		

Background: The Western Nevada Rail Park was established long ago at the county line – in fact its driveway is in Lyon County. The site has a history of uncompleted Parcel Maps, BLAs, and Subdivisions; however, only 2 lots have been created. In order for the lot east of the tracks (105.61 ac.) to have legal access to a public road, a small portion was extended to the west side of the tracks – that is where the existing facilities are sited. The remaining area west of the tracks is the west lot (58.2 ac.), which lies along the highway and surrounds the existing facilities. This existing parcel layout will change soon due to a parcel map that the owner submitted to separate the east side of the tracks as an independent property (legal access now exists), and also establish 3 separate lots on the west side. At that time new APNs will be established. The new rail spur proposed in this application will not obstruct that parcel map.

Previous SUPs have been approved for the properties, though they have eventually gone away: asphalt storage (2005), metals processing (2002); and a multi-tenant rail site for Black Gold Terminals (July 2018). The asphalt business encompassed the entire existing facility at the time, and included the propane tank farm and the propane powered boiler (in the smaller building). It also included an asphalt storage tank farm and extensive piping (north of the main building), which have recently been removed. Currently, the Crestwood propane tank farm business (3 very large cylinders) is using that area of the site, though a SUP was not submitted for it.

In 2020, the property was purchased by Industrial Realty Group LLC – a national company specializing in rail properties. They purchased this site (both sides of the tracks) and adjacent lands in Fernley. They created the Fernley Business Park LLC to be the current owner, which has long range plans for major development of the larger site. They obtained a SUP (March 2021) of limited scope to do a rail track expansion and redesign, and a minor expansion of the transloading area.

For future reference, future development will require additional permitting. In addition to SUPs required in the Code for different land-uses, the Code also requires that uses that generate high volumes of traffic obtain a SUP and perform a traffic study. The Code also requires uses that handle hazardous substances to obtain a SUP, such as tanks of hazardous fluids. The Code also requires uses that may impact public health and safety to obtain a SUP, such as storing large quantities of flammable materials outside. In summary, future facilities can require a Special Use Permit on multiple grounds.

Project Summary:

Like the Fernley Business Park's previous SUP, the current application is also of limited scope. It adds additional track length reaching to near the south end of the property; and adds another rail spur parallel to and on the other side of the buildings from the existing tracks, extending north to the access road (near the scale). The proposed spur extends across the 2 existing lots. Once the approved parcel map is recorded, this will be Parcel 1 and Parcel 3 of that map. This additional track length will also add additional transloading area. Also included is short side spur with a concrete docking area to assist with transloading cottonseed product from specialized rail cars.

As with the previous SUP, the applicant indicates that:

- only transloading between railcars and trucks is planned for the new transloading area
- transloading will mainly take place with mobile vehicles and equipment, such as forklifts or conveyors
- materials that are transloaded will not be stored on-site, except in the vehicles
- the types of materials that are handled are allowed on highways and rail lines

The applicant indicates that the new rail spur is not expected to substantially change the employees needed at the site. Rather this will allow improved efficiency so employees can do work in one area during inactive times in the other area. Employee number will change as needed with new transloading customers. In addition, customers may choose or need to do transloading themselves, such as for specialized transloading personnel. An example is the existing Crestwood propane tank farm, where Crestwood staff transloads propane from train to tank farm; and then to the tractor trailer propane trucks (also parked on-site). No change to business signage is proposed, but signage may be located in Lyon Co./Fernley, which would need permitting from Lyon Co./Fernley.

The site is served by a paved access road from US 50A located within a public road easement, but it is in poor condition. A condition of approval for the 2021 SUP required fixing the road condition, but that condition was not implemented. The parcel map also requires the road to be fixed before recording the map. The applicant has recently inquired with the County about converting it to a “private” road easement so the road can be gated. There is an existing security gate mid-way along the driveway.

Criteria Review:

CCC 16.08.080(H) Findings: Findings from a preponderance of evidence must indicate that the proposed use:

1. Is compatible with the existing surrounding land uses and development.

The surrounding land uses along US 50A are predominantly vacant desert land. The exceptions are the Patua geothermal and solar plant ~3/4 of a mile north, geothermal piping and related facilities in the nearby desert, and the Resource Way commercial site 1000’ to the south. The lack of other uses makes the proposal generally compatible with surrounding uses and development.

2. Is in substantial conformance with the master plan and policies and will be constructed and operated in full compliance of this code.

The **Master Plan** establishes land use districts that are implemented by the zoning districts. The Master Plan designation and Zoning District for the site are both Industrial. **The proposed Rail-Based Industrial Park is a listed use** in the use table of the development code, requiring a Special Use Permit. Most Master Plan policies are not applicable to the development of commercial uses, or are neutral in terms of general industrial activity. The main applicable section in the Master Plan is Chapter 11 Land Use, which requires protection of the community from new development.

Chapter 11 states: “The appearance of a community as seen from the main streets and highways expresses the community character and leaves a lasting impression on visitors and potential future residents and businesses. Special attention should therefore be given to the types of land uses that are permitted along these corridors... To promote a positive image of the County, all development within these gateways must adhere to appropriate landscaping and signage requirements and only those land uses that are aesthetically appealing should be encouraged.”

GOAL LU 2 All new development must be comprehensively designed to ensure a sustainable, safe, and healthy environment that integrates into the surrounding neighborhoods.

Policy LU 2.1 In reviewing any development proposal Churchill County shall consider issues of community character, balance, sustainability, environmental impact, safety, aesthetics and efficient service provision.

Compatibility issues of aesthetic, character, and balance are discussed under criterion 1, above.

The proposed development must conform to the County Development Code. Conditions of approval will address specific issues, including:

- **Height, Setbacks, and Easements:** The proposed dock is short and distant from the exterior property lines of the existing and future parcels. The new rail track is not subject to setbacks. The improvements do not encroach on any easements.
- **Office, Sewer, and water facilities:** The site has existing water well, septic system, and office.
- **Outside Storage Requirements (CCC 16.16.020.3.1):** Shipping containers have limits, but none are proposed. Outside material storage has screening requirements, but none is proposed. Transloading will move materials from one vehicle to another without long term storage. Extensive use of shipping containers or outside storage is not approved without further SUP review for the development.
- **Parking and Loading Requirements:** The parking code (including handicapped parking) requires parking for businesses and similar uses, which is determined through the Code with interpretation by the Planning Director. The parking code considers the proposed use to be Manufacturing (the closest comparable use), which requires 1 parking space per employee, and 5 for visitors. The application does not anticipate many new employees for the new transloading area. In the last SUP, the Public Works Director determined that 10 spaces are required for the rail park transloading expansion, which are already provided at the front of the office, and this application does not change the need.
- **Landscaping:** Landscaping requires 1 tree per 15 parking spaces, and a 10'-wide landscaped buffer along public roads. However, this is infeasible for full highway frontage, most of which has small hills screening the site from the highway. In addition, much of the site is already in operation. The Planning Director is recommending that the hills are adequate screens for the existing operations and the proposed expansion of transloading area. Future development of the industrial park will require additional landscaping.
- **Signage and Lighting Requirements:** The application indicates no change to signage and lighting.

3. The project will be constructed and operated in a manner that will not overburden public services and infrastructure.

There are no public sewer and water services available near the site. Private sewer and water service currently exist near the main buildings. Minimal additional power will be needed, which will be provided a utility provider. Public road infrastructure is discussed below. The main concern for industrial parks is the burden placed on fire service. The proposed increase in transloading area without buildings or storage will have minimal impact on fire or police services.

4. Adequately mitigates road and traffic impacts generated by the construction and build out of the project.

Nevada Dept. of Transportation (NDOT) controls access to the Reno Highway and requires new businesses to obtain or update their access permits and authorizations. The application indicates that minimal increases in employee traffic are expected, and expects truck traffic from the new transloading to increase from a high of 16, to a high of 24 – about 50% but still averaging only 3/hour. It is assumed the existing

NDOT access is adequate for the expected increase in traffic. The paved access road from the facility to the highway is in bad condition and previously had a missing section of paving. It is recommended that the access road be upgraded as required by the previous SUP and the approved parcel map. Staff recommends that the track improvements **NOT be authorized** until the access road improvements are built or bonded as required by the parcel map.

- 5. Does not create adverse environmental impacts, including, but not limited to, noise, glare, fumes, and odor that may be detrimental either to public health, public safety, or general welfare of the persons or property in the vicinity or the wildlife and/or natural resources.**

The potential environmental impact issues from the expanded rail spurs and transloading areas are an increase in rail car handling noise, large truck noise, vehicle exhaust smells, dust from land grading, and dust from traffic on new transloading areas. A mitigating consideration is that adjacent users that may be impacted are distant. The Hazen Townsite is 2 miles east, and Hazen farmstead residences are at least 4000' or more south. Commercial uses 1000' or more to the south have few customers or employees. There appears to be adequate separation to mitigate most impacts. The exception is dust impacts which can travel extensive distances, especially in the prevailing wind direction toward Hazen. The site soils are extremely fine and light, making them subject to disturbance and blowing in the wind. Conditions of approval from the previous SUP should be continued for this expansion, which requires that the expanded transloading area and driving paths be graveled. Construction grading for the new rail spur and transloading areas is not planned, but such may generate dust during construction. So appropriate dust control measures must be used, and appropriate local, state, or federal permits must be obtained.

STAFF RECOMMENDATION: **APPROVAL - as provided below.**

MOTION FOR FINDINGS: The motion should be modified by the Planning Commission as needed.

- ☐ Based on the information provided in the application, in the staff report, and heard tonight, I move that the findings [**HAVE BEEN // HAVE NOT BEEN**] met for conformance with the criteria found in CCC 16.08.080(H) on APNs 009-251-77 & -78.

[For APPROVAL - Staff Report provides adequate findings.]

[For DENIAL – ADD ADDITIONAL REASONING RELATED TO CRITERIA] Specifically, the proposal fails to

... ..

MOTION FOR DECISION: The motion should be modified by the Planning Commission as needed.

- ☐ Based on the previously adopted findings made for this project, I move to [**APPROVE // DENY**] the Special Use Permit application for Fernley Business Park to authorize an expansion of a Rail-Based Industrial Park on APNs 009-251-77 & -78.

For APPROVAL the motion should ADD:

This approval is subject to conditions, as listed in the Staff Report.

Recommended Conditions (NOT PART OF MOTION): Based on code requirements and issues raised during review of the project, the following conditions of approval are recommended to be included with any approval:

1. Conditions of approval for the March 2021 Special Use Permit continue to apply and are applied to the proposed improvements, including consideration for future changes to parcel lines.
2. Rail spur construction is not authorized until the access road improvements required for the parcel map have been constructed or bonded. The main access road shall be maintained as a paved road, and any unpaved segments shall be paved.

Application:	<u>Bill 2023-A - County Code Amendment to modify vehicle sales and rental in the use table and definitions</u>		
Use Listing:	<u>Multiple listings for vehicle sales and rental</u>		
Applicant:	Churchill County	Owner:	N/A
Site:	N/A		
Designations:	Master Plan – For use in the Urbanizing Area // Zoning – C-1, C-2, Industrial		

Proposal: Churchill County is proposing to modify how different types of vehicles sales and rental are handled in the **Use Table** and corresponding **definitions**. The primary distinctions are to:

- Treat passenger cars and small vehicles (including off road vehicles) similarly.
Allow them in the C-1, C-2, and Industrial Zones, as they currently are.
- Treat large vehicles needing a commercial driver's license and large machinery similarly.
Allow them in the C-2 and Industrial Zones, as they currently are with some modifications for large boxy vehicles.
- Treat large boxy vehicles and trailers (such as RVs, moving trucks, horse trailers, etc.) similarly.
Allow large boxy vehicles in the same zones as passenger vehicles - C-1, C-2, and Industrial Zones, but provide additional review through the Administrative Special Use Permit (A in the Use Table).
RVs and Rental Trucks are currently NOT allowed in the C-1 Zone.

CCC 16.08.060(E)2 *The commission, in forwarding a recommendation to the board for approval of a zoning map amendment or consolidated development code amendment shall make the following findings of fact:*

a. That the proposed amendment is in substantial compliance with and supports the goals and policies of the master plan.

The 2020 Master Plan establishes land use designations that are implemented by the Zoning Districts. The Urbanizing land use designation encompasses most of the C-1 and C-2 commercial zoning districts and some of the Industrial zoning districts in the County. Most commercial uses are restricted to the C-1, C-2, and Industrial zoning districts, and the vehicle sales and rental listings are limited to these. Clear and effective use table listings and associated definitions for commercial uses are in compliance with the Master Plan.

In addition, a major focus in the Land Use chapter of the Master Plan is compatibility with nearby uses. A major element in accomplishing this is to separate commercial uses from residential and agricultural uses. The proposed changes to the vehicle listings maintains this existing approach.

b. That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.

A major focus in the Land Use chapter of the Master Plan is compatibility with nearby uses. A major element in accomplishing this is to separate commercial uses from residential and agricultural uses. The proposed changes to the vehicle listings maintains this existing approach.

c. That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.

The proposed changes are minor changes in distinction for the existing vehicle listings. There will be no negative impacts to public services or facilities, or the public health, safety and welfare.

STAFF RECOMMENDATION: APPROVAL

MOTIONS FOR FINDINGS: The motion should be modified by the Planning Commission as needed.

- Based on the information provided in the packet materials, in the staff report, and heard tonight, I move that the findings [**HAVE BEEN // HAVE NOT BEEN**] met for conformance with the criteria found in CCC 16.08.060(E)2 regarding a County Code Amendment to modify the Use Table and definitions for vehicle sales and rental.

[For APPROVAL - Staff Report provides adequate findings.]

[For DENIAL – add additional findings:] Specifically, the proposal fails to**[ADD NEEDED REASONING RELATED TO CRITERIA]**

MOTIONS FOR DECISION: The motion should be modified by the Planning Commission as needed.

- Based on the previously adopted findings made for this project, I move to recommend that the Board of County Commissioners [**APPROVE // DENY**] Bill 2023-A amending the Churchill County Code to modify the Use Table and definitions for vehicle sales and rental.

Consent Agenda:

NOTE: 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 commission or any citizen may request that an item be taken from the Consent Agenda, discussed and acted upon separately during this meeting.

Please review the Consent Agenda to determine if you have any concerns.

RECOMMENDED MOTION

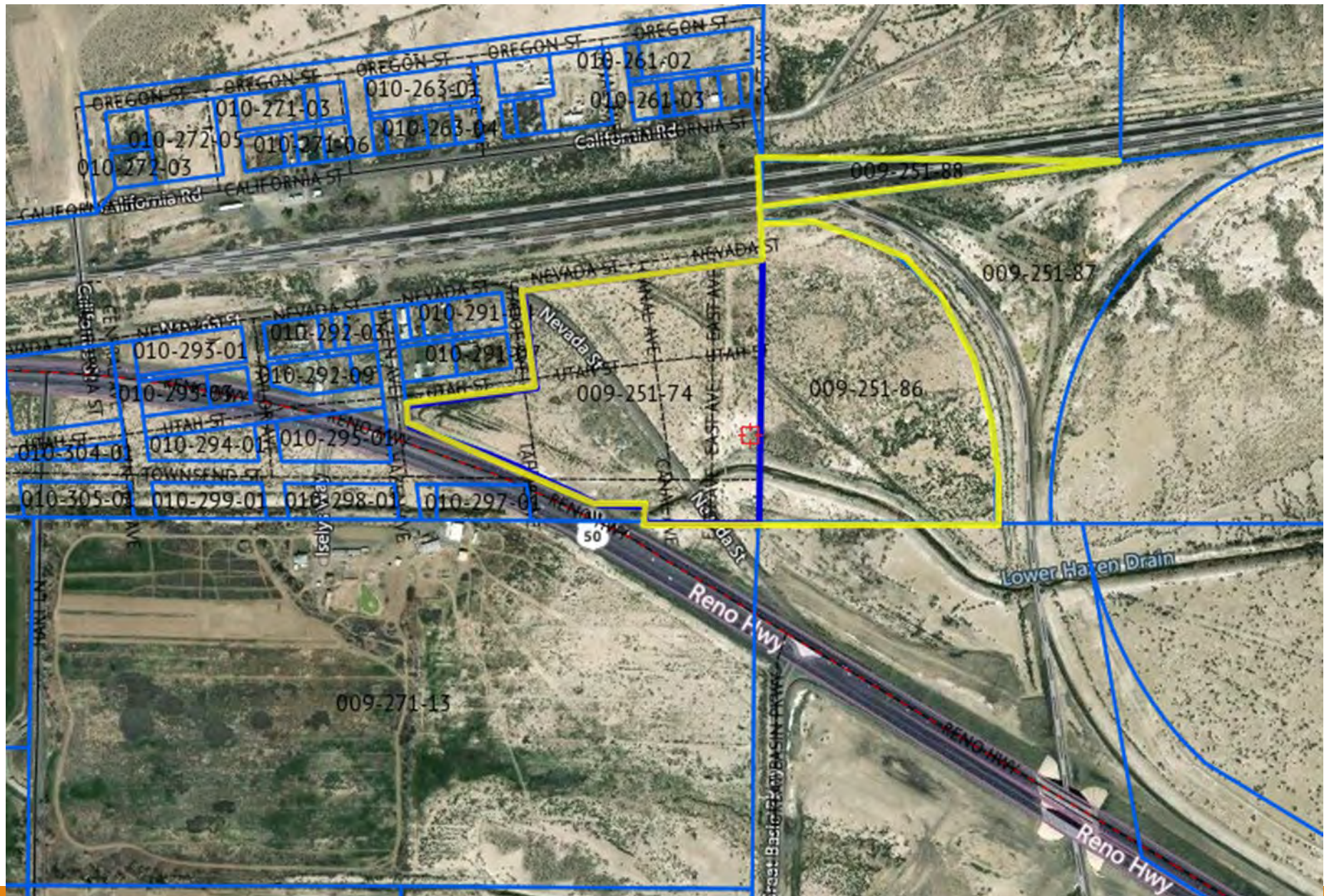
- I move to **Approve** the Consent Agenda as submitted.
- ***[IF YOU WISH TO REMOVE ANY ITEM FOR FURTHER DISCUSSION]***
I move to ***remove Item***____ for further discussion, and to approve the remainder of the Consent Agenda as submitted.

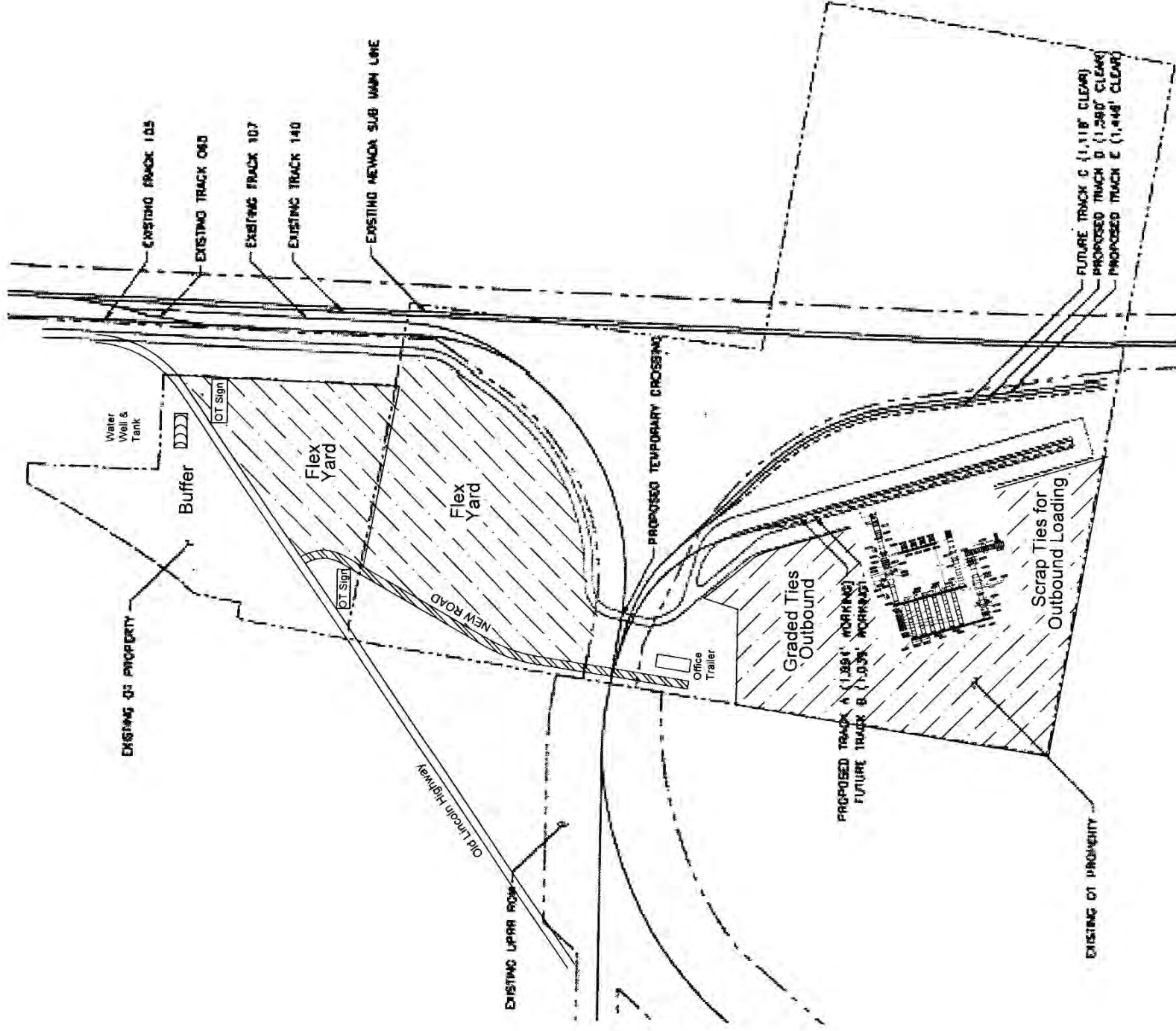


CHURCHILL COUNTY PLANNING COMMISSION HEARING

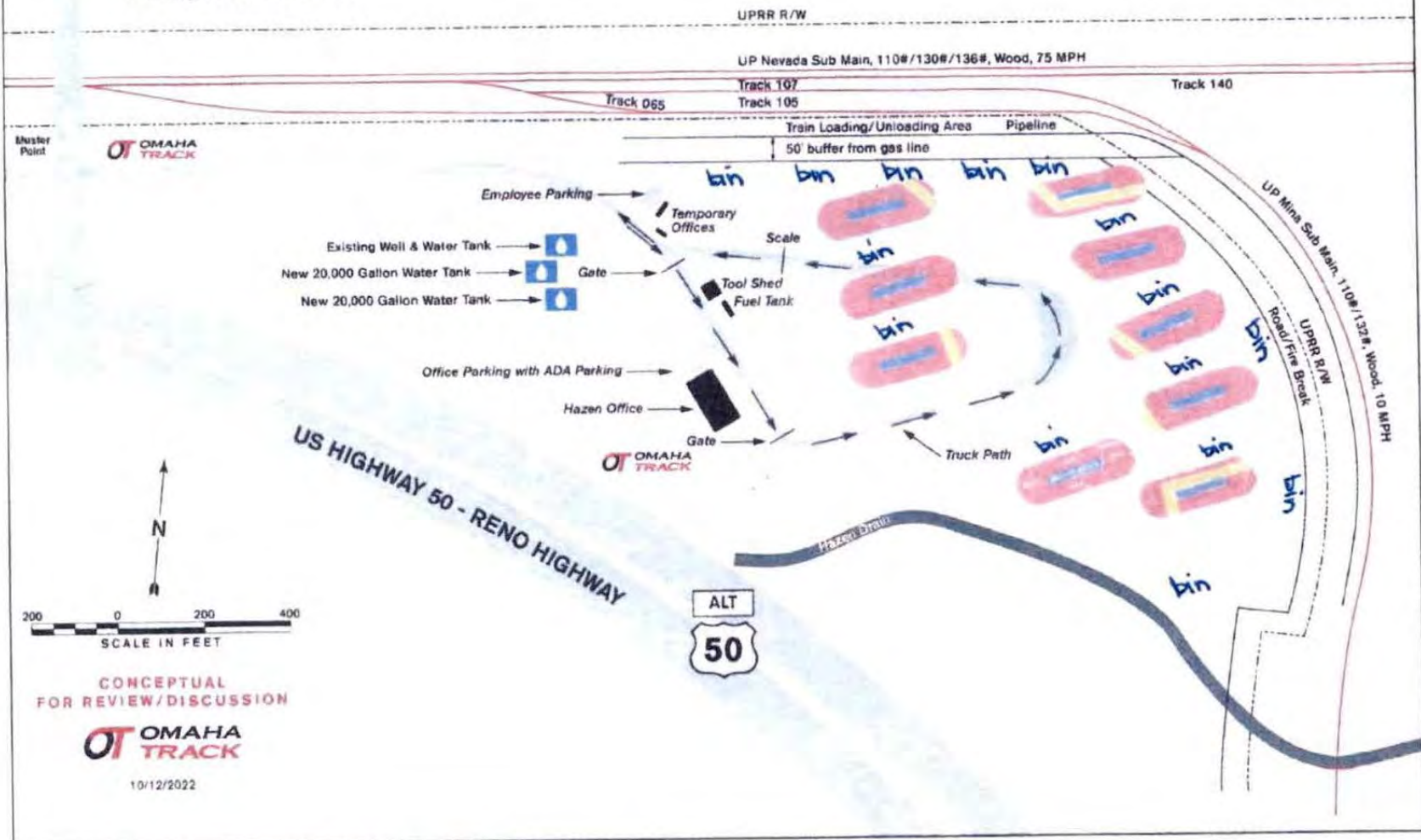
July 12, 2023

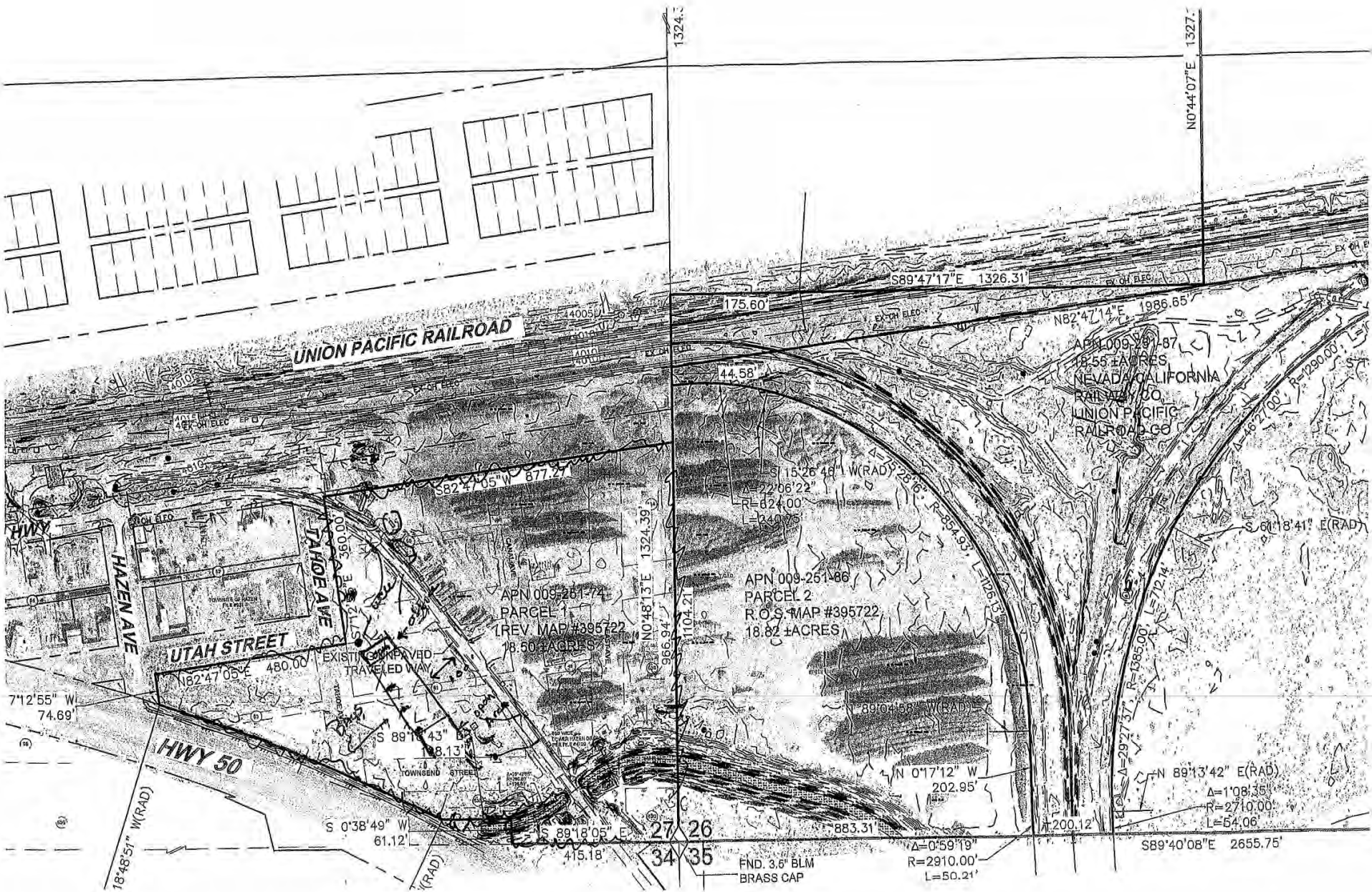
Omaha Track Major SUP, 1006 Nevada St, APNs 009-251-74, 009-251-86 & 009-251-88



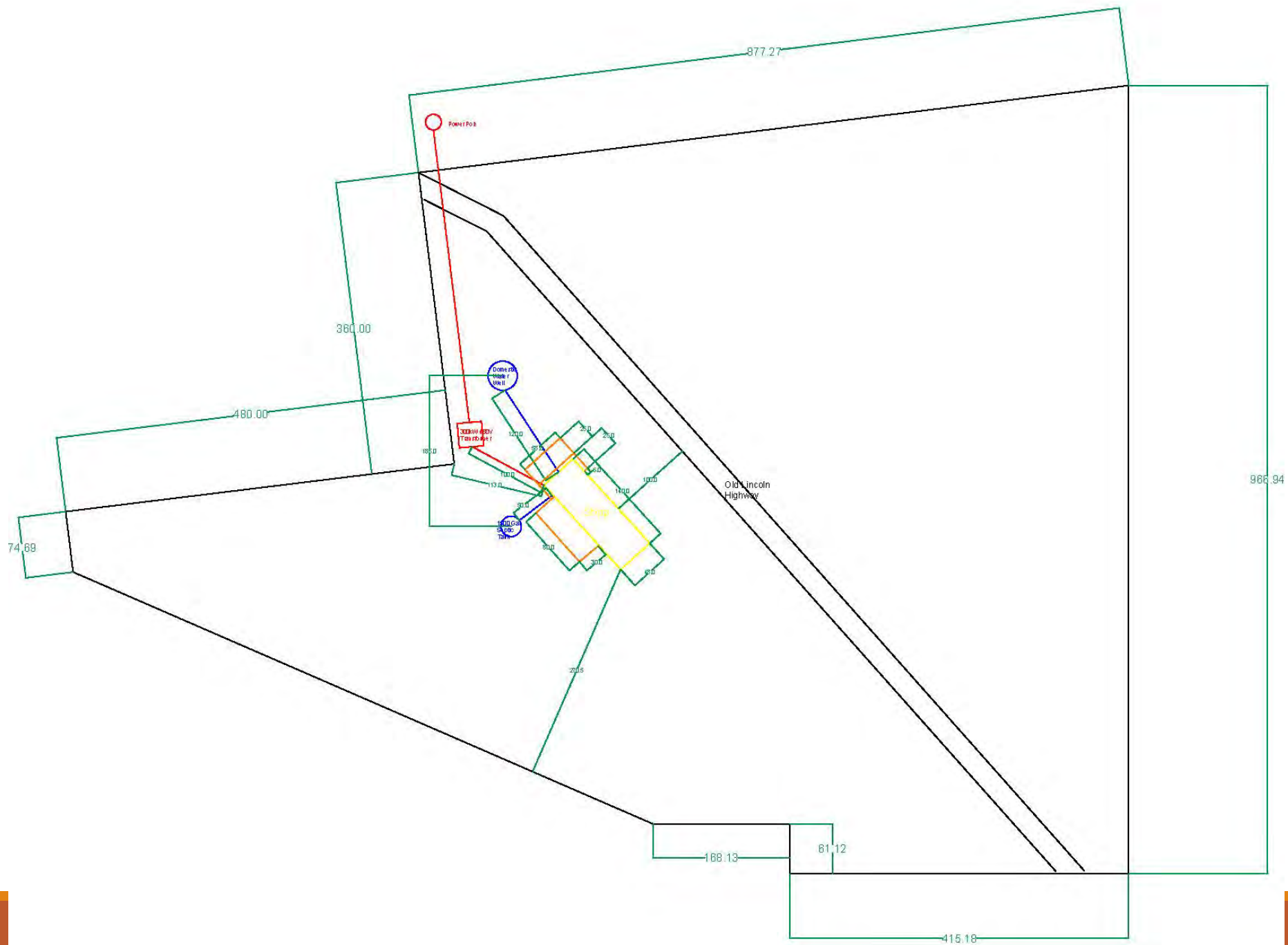


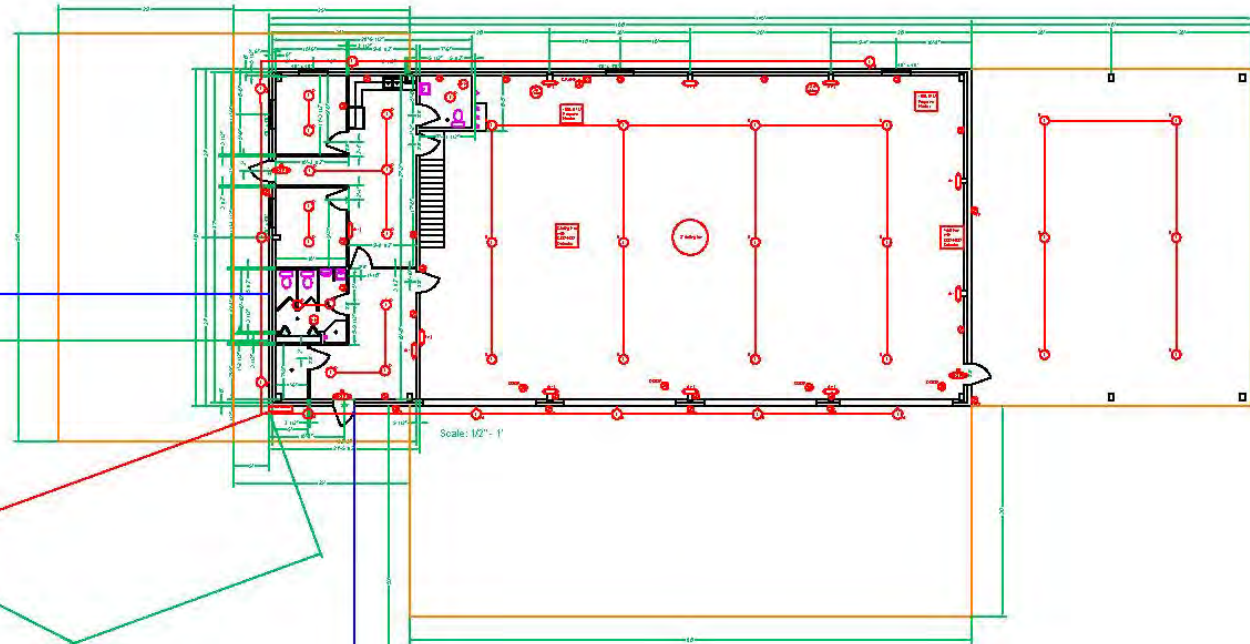
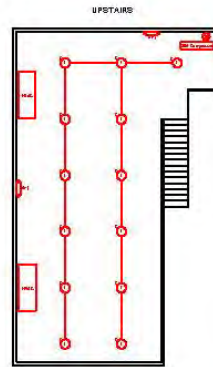
1006 Nevada Street
Fernley, Nevada 89408









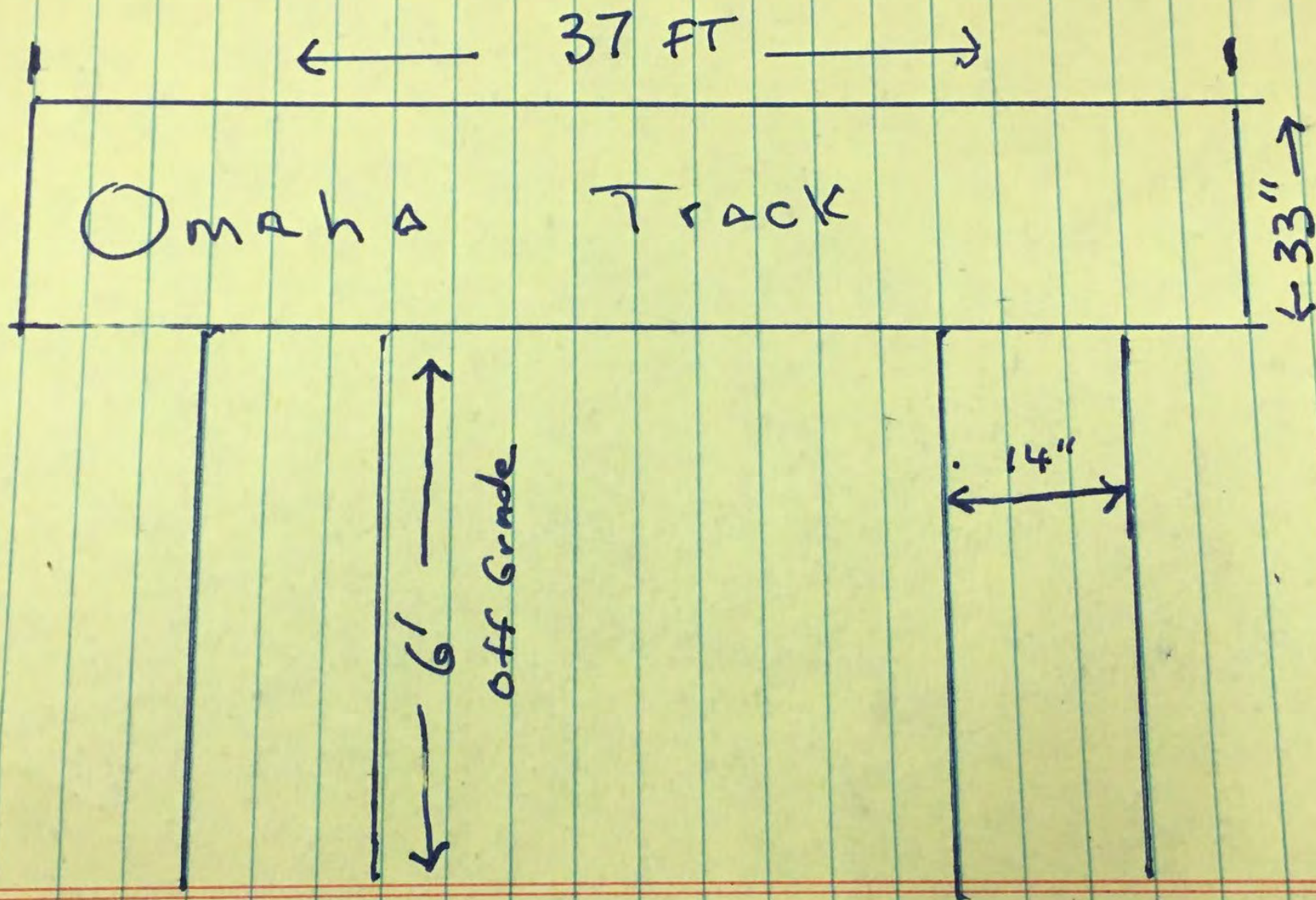


Scale: 1/2" = 1'

60 MBBTIC
WATERSHED

3 phase Power
Transformer

1 mgd Oil
Sep. Tank



OMAHA TRACK



This aerial map displays the 009-251-77 area, which is outlined in yellow. The map includes several other parcels outlined in cyan and blue. Key features include:

- RR11**: A railway line running diagonally across the upper portion of the map.
- Rd71**: A road running diagonally across the lower portion of the map.
- Parcel Numbers**: Various parcel numbers are labeled, including 009-251-77, 009-251-78, 009-251-79, 009-251-80, 009-251-81, 009-251-82, 009-251-83, 009-251-84, 009-251-85, 009-251-86, 009-251-87, 009-251-88, 009-251-89, 009-251-90, 009-251-91, 009-251-92, 009-251-93, 009-251-94, 009-251-95, 009-251-96, 009-251-97, 009-251-98, 009-251-99, 009-251-100, 009-251-101, 009-251-102, 009-251-103, 009-251-104, 009-251-105, 009-251-106, 009-251-107, 009-251-108, 009-251-109, 009-251-110, 009-251-111, 009-251-112, 009-251-113, 009-251-114, 009-251-115, 009-251-116, 009-251-117, 009-251-118, 009-251-119, 009-251-120, 009-251-121, 009-251-122, 009-251-123, 009-251-124, 009-251-125, 009-251-126, 009-251-127, 009-251-128, 009-251-129, 009-251-130, 009-251-131, 009-251-132, 009-251-133, 009-251-134, 009-251-135, 009-251-136, 009-251-137, 009-251-138, 009-251-139, 009-251-140, 009-251-141, 009-251-142, 009-251-143, 009-251-144, 009-251-145, 009-251-146, 009-251-147, 009-251-148, 009-251-149, 009-251-150, 009-251-151, 009-251-152, 009-251-153, 009-251-154, 009-251-155, 009-251-156, 009-251-157, 009-251-158, 009-251-159, 009-251-160, 009-251-161, 009-251-162, 009-251-163, 009-251-164, 009-251-165, 009-251-166, 009-251-167, 009-251-168, 009-251-169, 009-251-170, 009-251-171, 009-251-172, 009-251-173, 009-251-174, 009-251-175, 009-251-176, 009-251-177, 009-251-178, 009-251-179, 009-251-180, 009-251-181, 009-251-182, 009-251-183, 009-251-184, 009-251-185, 009-251-186, 009-251-187, 009-251-188, 009-251-189, 009-251-190, 009-251-191, 009-251-192, 009-251-193, 009-251-194, 009-251-195, 009-251-196, 009-251-197, 009-251-198, 009-251-199, 009-251-200, 009-251-201, 009-251-202, 009-251-203, 009-251-204, 009-251-205, 009-251-206, 009-251-207, 009-251-208, 009-251-209, 009-251-210, 009-251-211, 009-251-212, 009-251-213, 009-251-214, 009-251-215, 009-251-216, 009-251-217, 009-251-218, 009-251-219, 009-251-220, 009-251-221, 009-251-222, 009-251-223, 009-251-224, 009-251-225, 009-251-226, 009-251-227, 009-251-228, 009-251-229, 009-251-230, 009-251-231, 009-251-232, 009-251-233, 009-251-234, 009-251-235, 009-251-236, 009-251-237, 009-251-238, 009-251-239, 009-251-240, 009-251-241, 009-251-242, 009-251-243, 009-251-244, 009-251-245, 009-251-246, 009-251-247, 009-251-248, 009-251-249, 009-251-250, 009-251-251, 009-251-252, 009-251-253, 009-251-254, 009-251-255, 009-251-256, 009-251-257, 009-251-258, 009-251-259, 009-251-260, 009-251-261, 009-251-262, 009-251-263, 009-251-264, 009-251-265, 009-251-266, 009-251-267, 009-251-268, 009-251-269, 009-251-270, 009-251-271, 009-251-272, 009-251-273, 009-251-274, 009-251-275, 009-251-276, 009-251-277, 009-251-278, 009-251-279, 009-251-280, 009-251-281, 009-251-282, 009-251-283, 009-251-284, 009-251-285, 009-251-286, 009-251-287, 009-251-288, 009-251-289, 009-251-290, 009-251-291, 009-251-292, 009-251-293, 009-251-294, 009-251-295, 009-251-296, 009-251-297, 009-251-298, 009-251-299, 009-251-300, 009-251-301, 009-251-302, 009-251-303, 009-251-304, 009-251-305, 009-251-306, 009-251-307, 009-251-308, 009-251-309, 009-251-310, 009-251-311, 009-251-312, 009-251-313, 009-251-314, 009-251-315, 009-251-316, 009-251-317, 009-251-318, 009-251-319, 009-251-320, 009-251-321, 009-251-322, 009-251-323, 009-251-324, 009-251-325, 009-251-326, 009-251-327, 009-251-328, 009-251-329, 009-251-330, 009-251-331, 009-251-332, 009-251-333, 009-251-334, 009-251-335, 009-251-336, 009-251-337, 009-251-338, 009-251-339, 009-251-340, 009-251-341, 009-251-342, 009-251-343, 009-251-344, 009-251-345, 009-251-346, 009-251-347, 009-251-348, 009-251-349, 009-251-350, 009-251-351, 009-251-352, 009-251-353, 009-251-354, 009-251-355, 009-251-356, 009-251-357, 009-251-358, 009-251-359, 009-251-360, 009-251-361, 009-251-362, 009-251-363, 009-251-364, 009-251-365, 009-251-366, 009-251-367, 009-251-368, 009-251-369, 009-251-370, 009-251-371, 009-251-372, 009-251-373, 009-251-374, 009-251-375, 009-251-376, 009-251-377, 009-251-378, 009-251-379, 009-251-380, 009-251-381

APN 009-251-23
PATRICK ALLOCATION
COMPANY, LLC

APN 009-251-20
BUREAU OF
LAND MANAGEMENT

APN 021-302-05
PARCEL 2 FM 527638
FERNLEY BUSINESS PARK, LLC

BASIS OF BEARINGS:

NEVADA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983/1984, HIGH ACCURACY REFERENCE NETWORK (HAD 53/84-HARM), AS DETERMINED USING REAL TIME KINEMATIC (RTK) GPS OBSERVATIONS WITH CORRECTIONS TRANSMITTED BY THE NEVADA GPS NETWORK (NADN GPS). THE BEARINGS BETWEEN USGS BENCH MARK 7E 4307 AND "V 3401" AS PUBLISHED BY NEVADA DEPARTMENT OF TRANSPORTATION IS SOUTH 59°21'9" EAST. ALL DIMENSIONS SHOWN ARE GROUND DIMENSIONS, COMBINED GPD TO GROUND FACTOR = 1.000289+48.

APN 009-251-23
BUREAU OF
LAND MANAGEMENT

AREA SUMMARY

PARCEL 1 = 52.33 ACRES±
PARCEL 2 = 15.78 ACRES±
PARCEL 3 = 11.06 ACRES±
PARCEL 4 = 84.62 ACRES±
TOTAL AREA = 163.79 ACRES±

SURVEYOR'S REPORT

THE SURVEY WAS BASED ON STATE PLANE COORDINATES WHICH DIFFERS FROM THE BASIS OF BEARINGS FROM THE PARENT MAP (RECORD OF SURVEY FILE NO. 403744). UPON DOING SO BEARINGS FROM THE PARENT MAP ARE ROTATED CLOCKWISE 00°18'28" TO THE FOUND MONUMENTS.

THE NEVADA DEPARTMENT OF TRANSPORTATION (NDOT) PLANS LISTED AS REFERENCES NUMBERS 7 AND 8 INDICATE THAT US HIGHWAY 50A IS AN EASEMENT PER REFERENCES NUMBERS 7 AND 8 OWNED BY NDOT. THESE PLANS AND THEIR COORDINATES AND TIES TO THE USGS MONUMENTS USED IN THE BASIS OF BEARINGS ARE ALSO IN CONFORMANCE WITH THE PLANS.

HOWEVER THE COORDINATE LOCATIONS FROM THE RECORD MAPPING AND NDOT PLANS HAVE A DISCREPANCY IN BEARINGS AND LOCATION ALONG US 50A AS SHOWN IN DETAILS 1 AND 2 ON THIS SHEET. IT IS MY OPINION THAT AS LONG AS US 50A IS AN EASEMENT AND NOT OWNED IN FEE TITLE BY NDOT THAT THE FOUND MONUMENTS FOR THE RECORD MAPPING DETERMINE THE SOUTHWESTERLY BOUNDARY OF THE PROPERTY.

PARCEL 4
84.62 ACRES±
NWR

PARCEL 1
52.33 ACRES±
NWR

PARCEL 3
11.06 ACRES±
NWR

PARCEL 2
15.78 ACRES±
NWR

APN 021-302-20
PARCEL 2 FM 527638
FERNLEY BUSINESS PARK, LLC

APN 021-302-10
PARCEL 1 FM 527638
FERNLEY BUSINESS PARK, LLC

REFERENCES

- 1) DIVISION LAND MAP FILE NO. 326788, 1/4/2000.
- 2) PARCEL MAP FILE NO. 389749, 4/24/2008.
- 3) RECORD OF SURVEY FILE NO. 403544, 10/10/2006.
- 4) RECORD OF SURVEY FILE NO. 241704, 11/24/1999.
- 5) PARCEL MAP FILE NO. 527638, 11/3/2014.
- 6) DOCUMENT NO. 52738, 10/20/1948.
- 7) NEVADA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY PLANS, PROJECT (N-050-A(002), EA 72786 DATED DECEMBER 30, 2004).
- 8) NEVADA DEPARTMENT OF TRANSPORTATION PROJECT ALIGNMENT AND MONUMENT OFFSET REPORT FOR LPM 1624 - US 50A CENTERLINE RETRACEMENT, 7/17/2019.

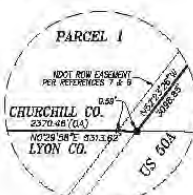
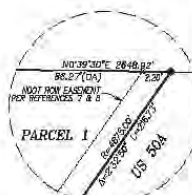
EASEMENT TABLE

- 1) 10' PUE PER LAND MAP FILE NO. 326788, TO REMAIN
- 2) 18.5' PUE PER LAND MAP FILE NO. 326788, TO REMAIN
- 3) 10' PUE PER PARCEL MAP FILE NO. 389749, RELINQUISHED HEREON
- 4) 60' RELOCATABLE ACCESS EASEMENT PER PARCEL MAP FILE NO. 389749, RELINQUISHED IN FAVOR OF A 60' ROAD EASEMENT IN THE SAME PLACE DEDICATED TO CHURCHILL COUNTY
- 5) 30' FUEL PIPELINE EASEMENT PER DOCUMENT NO. 326135, TO REMAIN
- 6) 10' ELECTRIC DISTRIBUTION EASEMENT PER DOCUMENT NO. 399397, TO REMAIN
- 7) 10' ELECTRIC DISTRIBUTION EASEMENT PER DOCUMENT NO. 438860, TO REMAIN
- 8) 100' HAZEN DRAIN EASEMENT AS SHOWN ON REFERENCE NO. 3
- 9) 60' ACCESS EASEMENT GRANTED HEREON
- 10) 10' ELECTRIC DISTRIBUTION EASEMENT PER DOCUMENT NO. 423637, LYON COUNTY
- 11) 60' RELOCATABLE ACCESS EASEMENT PER P.M. FILE NO. 421350, LYON COUNTY

SURVEY TABLE	
101	101
101	101
101	101

PROPERTY INFO

OWNER: FERNLEY BUSINESS PARK, LLC
ADDRESS: 17000 BEND AVENUE
APN: 009-251-77 & 78
COUNTY: INDUSTRIAL
TOTAL AREA: 163.79 ACRES±



LEGEND

- FOUND 5/8" REBAR W/ CAP "PLS 1012" UNLESS OTHERWISE NOTED
- BOUNDARY POINT-MONUMENT FOUND ON SET
- FOUND PLUS CORNERS AS NOTED
- FOUND NDOT MONUMENTS AS NOTED
- SET 5/8" REBAR W/ CAP "PLS 1878" OR 5/8" SODS ON PROPERTY LINE EXTENDED
- PUBLIC UTILITY EASEMENT
- S.F. SQUARE FEET
- (70) RAIL BEARINGS
- RECORD DIVISION AND REFERENCE NUMBER
- PROJECT BOUNDARY
- PARCEL LINE
- CONTRIBUTION
- ADJACENT PARCEL
- ADJACENT RIGHT OF WAY
- NDOT RIGHT-OF-WAY EASEMENT
- EASEMENT
- NWR NO WATER RIGHTS

CHURCHILL COUNTY
2943.78'
LYON COUNTY

MERGER AND RESUBDIVISION PARCEL MAP FOR

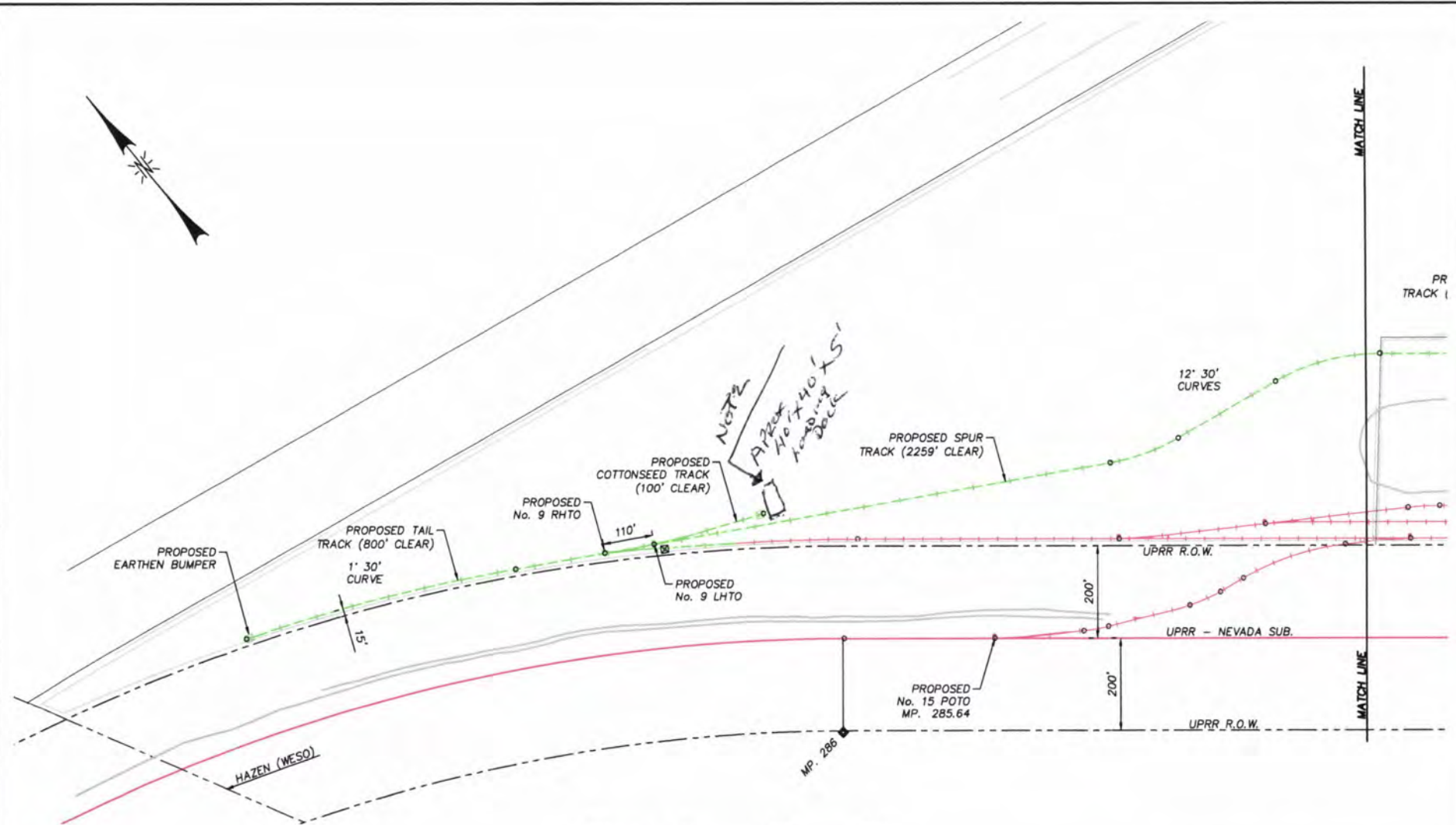
FERNLEY
BUSINESS PARK, LLC

A MERGER AND RESUBDIVISION OF PARCEL A-1A AND PARCEL A-2A PER OUTCLAIM DEED DOCUMENT NO. 408649 AND SHOWN ON RECORD OF SURVEY FILE NO. 403544. UNPLATTED WEST 1/2 OF EAST 1/2 OF SECTION 28, TOWNSHIP 20 NORTH, RANGE 20 EAST, N.D.M. COUNTY OF CHURCHILL, STATE OF NEVADA.

CHRISTY
CORPORATION

1000 Wiley Pkwy | Sparks, Nevada 89436
775.502.8552 | christy.com

SHEET
2
OF
2

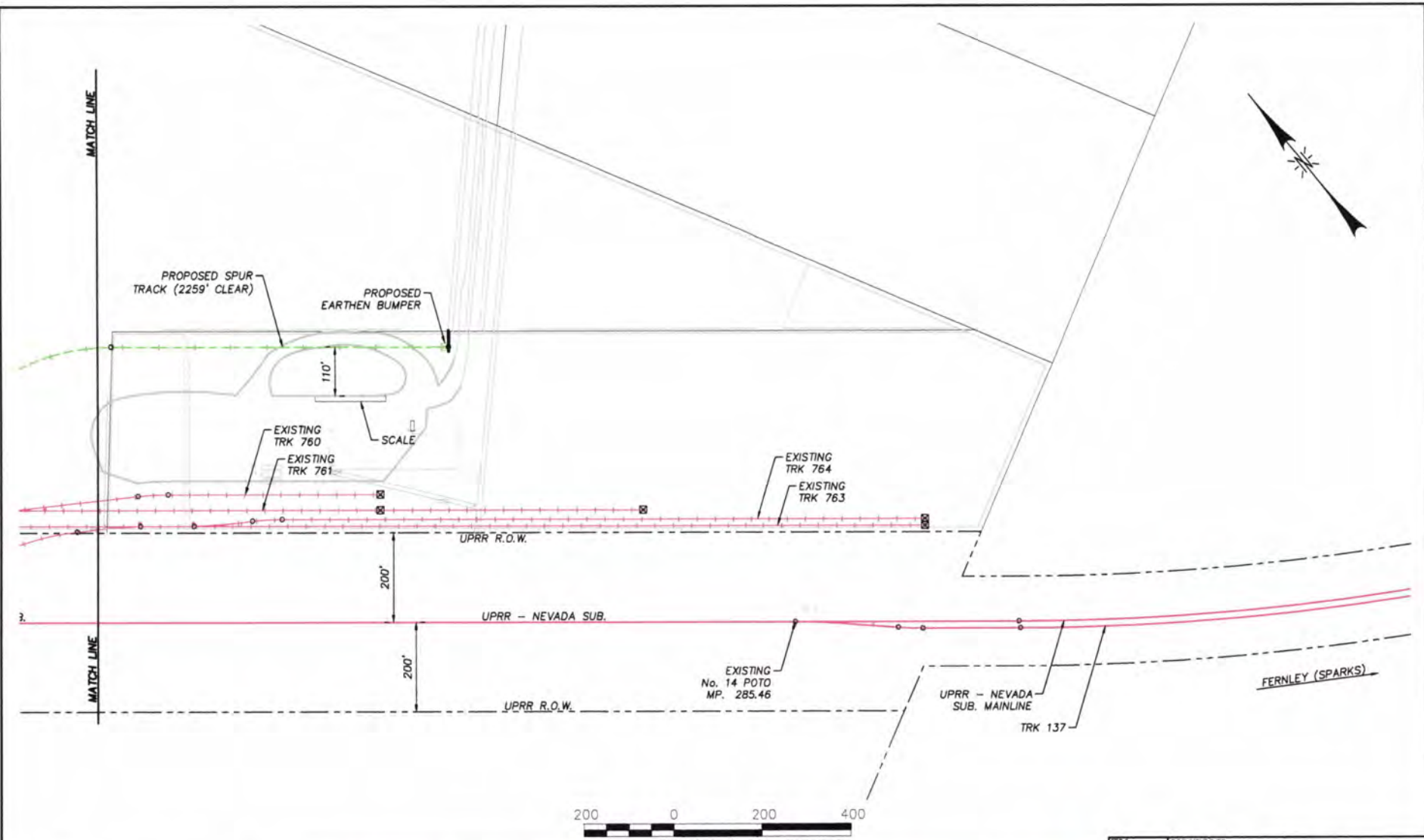


REV #	BY	DATE	DESCRIPTION

Exist. UPRR Track	Shift Ind. Track	Hand Throw Turnout
Prop. UPRR Track	Future Ind. Track	Power Turnout
Remove UPRR Track	Prop. Leased Ind. Track	Hand Throw Derail
Shift UPRR Track	Ex. Leased Ind. Track	Point of Curve
Ex. Ind. Track	No RR Operations	Bridge
Prop. Ind. Track	Right of Way	Signal
Remove Ind. Track	Acquire Property	



DESIGNED BY: TBD	DOCUMENT TYPE: Preliminary Concept
DRAWN BY: JO	For use in Agreement with: UNION PACIFIC RAILROAD
CHECKED BY: JLV	LOCATION & DESCRIPTION: Fernley Business Park
DATE: 6-7-23	Darwin, Lyon Co., NV - Nevada Sub - MP 283.42 To 285.64
SHEET NUMBER: 001 of 002	SHEET TITLE: Plan View



REV. #	BY	DATE	DESCRIPTION

- Exist. UPRR Track - Prop. UPRR Track - Remove UPRR Track - Shift UPRR Track - Ex. Ind. Track - Prop. Ind. Track - Remove Ind. Track	- Shift Ind. Track - Future Ind. Track - Prop. Leased Ind. Track - Ex. Leased Ind. Track - No RR Operations - Right of Way - Acquire Property	- Hand Throw Turnout - Power Turnout - Power Derrail - Hand Throw Derrail - Point of Curve - Bridge - Signal
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TSS #	TBD	DOCUMENT TYPE	Preliminary Concept
DRAWN BY	JO	UNION PACIFIC RAILROAD For use in Agreement with: Fernley Business Park	LOCATION & DESCRIPTION: Darwin, Lyon Co., NV - Nevada Sub - MP 283.42 To 285.64
CHECKED BY	JLV		
DATE	6-7-23	SHEET TITLE: Plan View	
SHEET NUMBER	002 of 002		

Bill 2023-A

Ordinance 32

Consent Agenda

Marlene Holmes/Silver Sage Horse Boarding, SUP Termination, 4755 Silver Sage Ln, APN 006-811-60



Hazen Special use permit follow up.

2. The yard is well below the permit level of 150K in material. All steps were taken when we hit the 50K mark. The Fallon Churchill County Fire Department has been working with us to ensure all steps are taken. Monthly inventory is sent in to the Churchill County for record keeping.

3. NONE

4. No plans currently to develop Lot 3

5. No material storage on Lot 1 west side.

7. all roads are being watered and cleaned to reduce dust; yard has been sprayed with Mag Chloride (salt water) on road area to reduce dust.

We have received a bid to do extensive road work in the interior of the yard during build construction.

9. Fire plan has been followed with weekly inspections to ensure compliance with Fallon Churchill County Fire Department. Pumps are inspected and started weekly.

10. All scrap is loaded into metal containers (14 on site) that are then loaded to outbound rail cars to be disposed of offsite. No scrap material is stored in Hazen.

11. Hazen staff has been working on and acquiring all items to continue and meet all requirements from Churchill County. On 6/15/2023 we received the final testing results of any land contamination and water. All items were negative, and the proper paperwork has been submitted to the NDEP.

We are currently in the process of meeting all sub parts of #11 Paragraph A-G

1. Two bids have been received to screen in any non-tie material in the yard, we are waiting to do groundwork before installing the fence. The goal is to have it completed by 11/1/2023.
2. The current sign that was presented to Churchill County is under production and will be installed after all dirt work is completed.
3. Landscaping and the sound berm are being added to the construction plans. The goal is to have them in place during the construction of our office building. Considerable grading must be completed to ensure proper drainage for the yard.
4. All parking requirements will be implemented on completion of the building.
5. All current lighting has been inspected and approved by Churchill County.

Omaha Track is currently in the process of submitting all necessary paperwork to install a shop, with an attached office. The building has been purchased and planned and is being stamped by our engineering firm. Our goal is to have the building in place by November. This will meet our requirements to have our water trucks housed for winter use and meet all the requirements on the permit.



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources
Joe Lombardo, Governor
James A. Settelmeyer, Director
Jennifer L. Carr, Administrator

June 30, 2023

Jeff Peterson
Omaha Track
12930 I Street
Omaha, NE 68137

Subject: **No Further Action Determination**

Facility: Omaha Track Railroad Tie Yard, 1006 Nevada Street, Hazen, Nevada
Spill Report No.: 220908-01
Facility ID: E-000178

Dear Jeff Peterson:

The Nevada Division of Environmental Protection (NDEP) has reviewed the *Release Response Report* dated November 21, 2022 and the *Additional Environmental Site Assessment Report* dated June 20, 2023. The reports were prepared by Caitlin Jelle, Certified Environmental Manager (CEM) of McGinley and Associates, Inc on behalf of Omaha Track. This letter provides a no further action determination for the release of petroleum hydrocarbons and petroleum hydrocarbon constituents to soil resulting from the long-term storage of creosote-treated railroad ties and a fire that occurred in September 2022 at the above-referenced facility (Site) and applies to other places contaminants related to this release have come to be located (NAC 445A.3452).

The *Release Response Report* documents initial abatement and remediation activities of surficial impacts at the Site following the September 2022 fire. Surficial soil samples collected across the facility contained total petroleum hydrocarbons (TPH) above the State action level of 100 milligrams per kilogram (mg/kg) and petroleum hydrocarbon constituents benzo(a)anthracene and benzo(a)pyrene above the NDEP *Analyte Specific Closure Levels* for industrial site use.

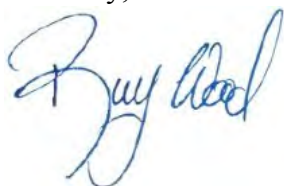
The *Additional Environmental Site Assessment Report* documents soil and groundwater sampling conducted at the site to characterize impacts at depth based on the elevated contaminant concentrations previously discovered in surficial soil. The *Additional Environmental Site Assessment Report* concludes that, while surficial soil contains elevated concentrations of benzo(a)anthracene and benzo(a)pyrene, soil samples collected below a depth of 2.5 feet do not contain contaminant concentrations above the NDEP *Analyte Specific Closure Levels* for industrial site use. Additionally, contaminant concentrations in groundwater are either low or non-detect and do not exceed any established Environmental Protection Agency (EPA) Maximum Contaminant Levels (MCLs). The *Release Response Report* and the *Additional Environmental Site Assessment Report* contain a request for a no further action determination from the NDEP.

The NDEP has reviewed information contained in the Corrective Action file that has been provided by Omaha Track and Caitlin Jelle, CEM. Based on this review, benzo(a)anthracene and benzo(a)pyrene remain above industrial action levels or remediation standards in soil. However, based on current land and groundwater uses, NDEP has determined that no further assessment or remediation is required to be protective of human health and the environment (NAC 445A.227(2)).

NDEP may re-evaluate this decision if conditions at the site change or if new or previously unidentified information becomes available that: 1) alters the results of the site evaluation; and 2) demonstrates a potential detrimental impact on human health or the environment.

If you have any questions or concerns regarding this letter, please contact the undersigned at 775-687-9383 or rwood@ndep.nv.gov.

Sincerely,



Ruby Wood
Environmental Scientist
Bureau of Corrective Actions, NDEP

cc Andrew Dixon, Bureau of Water Pollution Control, andrew.dixon@ndep.nv.gov
Benjamin Moan, Remediation & LUST Supervisor, Las Vegas Office, bmoan@ndep.nv.gov
Caitlin Jelle, McGinley & Associates, 6995 Sierra Center Parkway, Reno, NV 89511, cjelle@mcgin.com
Christian Spross, Director, Churchill County Public Works, 155 N Taylor, Suite 194, Fallon, NV 89406, cspross@churchillcounty.org
Corey Harbart, GrayMar Environmental Services, Inc, charbart@graymarenv.com
Jeff Peterson, President, Omaha Track, Inc, jeff@omahatrack.com
Jeffrey Kinder, Deputy Administrator, NDEP, jkinder@ndep.nv.gov
Jennifer Carr, Administrator, NDEP, jcarr@ndep.nv.gov
Jim Barbee, Churchill County Manager, 155 N. Taylor Street, Ste. 153, Fallon, NV 89406, jbarbee@churchillcounty.org
Jim Soulia, Director of Operations, Omaha Track, jamessoulia@omahatrack.com
Kristi Black, NDEP Bureau of Water Pollution Control, kblack@ndep.nv.gov
Meg Ridge, Hazen Yard Manager, Omaha Track, meg@omahatrack.com
Mitch Cowles, NDEP Bureau of Water Pollution Control, mcowles@ndep.nv.gov
Scott Smale, DoD and Remediation Branch Supervisor, ssmale@ndep.nv.gov
Steven Abernathy, 400 Mason Road, Hazen, Nevada, sabernat1010@yahoo.com
cc Pete Olsen, Chair, Churchill County Board of Commissioners, 155 N. Taylor Street, Ste. 110, Fallon, NV 89406

NEVADA GENERAL BILL OF SALE

Date: 06/20/2023

1. THE PARTIES.

Buyer's Name: Omaha Track with a mailing address of 1006 Nevada Street, Hazen, NV 89408.

Seller's Name: Great Basin Water Supply LLC with a mailing address of 1271 Stallion Ct., Fernley NV 89408.

2. Metal Building (shop)

Description: American Buildings, 48'x100'x26' steel building with 40'x48' attached canopy.

Serial Number (SN) (if any): Ordered and delivered from Clint Jensen Construction, 623 Windmill Rd., Fallon NV 89406

3. TRADE/PURCHASE PRICE. ☒ check one (1)

☒ - Seller accepts cash payment in the amount of:

to be paid on:

☒ - The date of this bill of sale.

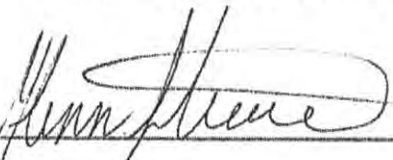
☐ - At a future date no later than [DATE]

☐ - Other. [OTHER]

☐ - Seller accepts trade for the exchange for: [ENTER TRADE]

4. BUYER AND SELLER DISCLOSURE.

The undersigned Seller affirms that the above information about the steel building is accurate to the best of their knowledge. The undersigned Buyer accepts receipt of this bill of sale and understands that the above steel building is sold on an "as is, where is" condition with no guarantees or warranties, either expressed or implied. Steel building to be delivered to 1006 Nevada Street, Hazen NV 89408 via Great Basin Water Supply truck and trailer.

Seller's Signature:  Date: 6-20-23

Print Name: Glenn Stursa

Buyer's Signature:  Date: 6/28/23

Print Name: Terry R. Peterson