

MINUTES OF THE CHURCHILL COUNTY PLANNING COMMISSION

155 N. Taylor St., Fallon, NV 89406
November 8, 2023

1. Call to Order:

The regular meeting of the Planning Commission was called to order at 7:00 p.m. on November 8, 2023 by Chair Blakey.

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

Absent: Zack Bunyard, Member

Planning Staff Present:

Chris Spross, Public Works Director
Dean Patterson, Senior Planner
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 November 2, 2023, between 8:30 a.m. and 5:00 p.m., at all of the locations listed on the agenda, in accordance with NRS 241 and the Churchill County Code.

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

Member Picotte moved to approve the agenda as submitted. Member Nelson seconded the motion which carried by unanimous vote.

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. October 11, 2023 Hearing

Member Goings moved to approve the October 11, 2023 minutes as written.

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

8. Old Business

A. Consideration and possible action re: A temporary use permit renewal for temporary quarters during home construction for Steven & Renzie Claire Easter for property located at 4143

Solias Road, Assessor's Parcel Number 006-472-37, in the A-5 zoning district. Origination Date 10/14/2015. The applicants stated that the mobile unit is already set in place ready for the stem wall, and her father passed away in September 2023 so they had to go overseas to handle the funeral arrangements.

Steven Easter, 4143 Solias Road, was available to speak regarding this application.

Director Spross shared some of the history for this permit from the staff report. He read a response that he received from the Building Department that indicated that due to a lack of progress the original building permit had expired in August 2023. In October 2023, Mr. Easter came in to discuss some difficulties regarding proper construction of the stem wall and asked that the permits be reopened. It now has an expiration date of April 17, 2024. There was an inspection done on the stem wall on October 18, 2023, and it seemed to show minimal progress. The Building Department wanted to note that an inspection must be performed and approved by the Nevada Manufactured Housing Division, and no occupancy of the home is allowed until the state approves the inspection. Once that sticker is in the window, then the Building Department will do their final inspection. There was an inspection done on the septic system, and it indicates that an approved septic system has been constructed on that site.

Chair Blakey inquired if the applicant had anything to add. Mr. Easter stated that they have half of the stem wall done as of now, and he is waiting for a response from Ray Brown, Building Inspector, regarding the ends of the house. They have moved the home and set it up onto the pad. They are working on the other side of the stem wall right now, and he hopes that he can get the inspection to pour the concrete before it freezes. He just needs a little more time to get it finished. Chair Blakey verified that he made a phone call to Ray Brown, and Steven Easter replied that he emailed him.

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

Member Hyde questioned how much time would be needed to complete the project. Mr. Easter responded that he believes it will be a couple of more months to get it finalized as they are working on the stem wall now. Once that is done, he can get the inspection from Ray Brown, and then get with Carson City for them to come and complete their inspection.

Member Diehl inquired about having all of the permits in order, and Steven Easter answered in the affirmative.

Member Goings asked Director Spross what the expiration date was for the building permit, and he replied that it was extended for six months to April 17, 2024. Member Goings then inquired if Mr. Easter thought he could be completed by the expiration date of the permit. Steven Easter believes that he could have it completed by that date. If it freezes, the concrete and blocks would have issues with sticking together. He does think it can be done by April 2024.

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

Member Goings moved to approve renewal of the Temporary Use Permit for Temporary Quarters for Home Construction for Steven & Renzie Easter for property located at 4143 Solias Road (APN 006-472-37) until the expiration of the building permit, which is April 17, 2024. Member Hyde seconded the motion and the decision carried by unanimous vote.

- B. Consideration and possible action re: A request to change the caretaker for the temporary use permit for temporary quarters for hardship/caretaker that was previously granted to Lancer Wagar at 2944 Nicole Circle, Assessor's Parcel Number 006-691-35, in the A-5 zoning

district. Origination Date 11/09/2022. The landowner, Delores Wagar, notified the department that her son, Lancer Wagar, passed away, and she requested to allow his fiancé, Denise Shakelford, to continue to reside in the RV as the caretaker for her and her husband.

Delores Wagar, 2944 Nicole Circle, was available to speak regarding this application.

Director Spross explained that Lancer Wagar, who was approved as the caretaker on this permit has passed away, and Mrs. Wagar is requesting to allow Lancer's fiancé, Denise Shakelford, be allowed to be the caretaker until she can find another place to live.

Chair Blakey inquired if the applicant had anything to add, and she did not.

Chair Blakey asked if any of the commissioners had any questions or discussion. There being none he called for a motion.

Member Hyde moved to approve renewal of the Temporary Use Permit for Temporary Quarters for Hardship/Caretaker and change of caretaker to Denise Shakelford for Delores Wagar for property located at 2944 Nicole Circle (APN 006-691-35). Member Diehl seconded the motion and the decision carried by unanimous vote.

- C. Consideration and possible action re: Review of a special use permit for a Rail Based Services Facility previously granted to Omaha Track, Inc. on property located at 1006 Nevada Street, Hazen, Assessor's Parcel Number 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. *This item was tabled from the July 12, 2023 meeting.*

Jeff Peterson, 12930 I Street, Omaha, NE, and Meg Ridge, 1006 Nevada Street, Hazen, were available to speak regarding this application.

Joseph Sanford, Deputy District Attorney—Civil, shared that on July 13, 2022 Omaha Track was granted a special use permit. Following a fire in September 2022, this commission and Omaha Track in December 2022 entered into an agreement amending the special use permit that was previously approved. They set a review on July 13, 2023 to review the compliance with the special use permit. At that meeting an extension was granted by this commission to this meeting to review the conditions of the special use permit. On October 24, 2023, we received a letter from Omaha Track providing an update as to how they were proceeding with the conditions of the permit. They were still working on a number of them. Condition 7 for all roads, driveways, parking lots, and loading areas shall be paved and graveled, which has not yet been completed. The fire protection plan requiring an insulated building for water trucks has not yet been completed. Condition 11.a. regarding all non-tie, outdoor storage must be screen has not yet been completed. Item 11.c. requiring landscaping and 11.d. requiring a sound berm as well as a parking lot with ADA accessibility has not yet been completed. Also, impact fees still need to be paid. At the time of their response, they were still working diligently on a number of these items, and he had received a couple of pictures this afternoon showing the progress of some of the items. His recommendation is to allow Omaha Track to provide an update as to how things have progressed on all of those conditions in that time.

Chair Blakey inquired if the applicant had anything to add.

Jeff Peterson stated that Hazen has been a challenging environment. They are at a crossroads with this site. They have to figure out if they want to continue to operate there and does it make sense business-wise to even be there. Their contract with the ties has probably another year on it, and they don't know if it is going to renew. They have to consider how much

they want to invest in a facility that may not be there next year. At the last meeting, where they spoke with his co-worker/employee Jim Soulia, was a little contentious. They had bought a building and were kind of moving forward with a lot of stuff, but after that meeting, they got “cold feet” about this situation. It is an uncertain territory, and if they are going to invest in this place and do everything that needs to be done, it will cost millions of dollars. He asked the commissioners if they were in his shoes what they would do. He pointed out that Meg Ridge and her team are great people. The only reason that he is even at the meeting is because of them. He cares about the people that are part of their family. Even with all the unfortunate things that have gone on there, they have persevered. If you look at the site now, it is beautiful. He pointed out that it doesn’t look anything like the aerial photographs displayed on the screen. They have really cleaned things up and have the berms up. They are working on the landscaping. Mr. Peterson noted that they need to get back into business. For them to even possibly think about investing any money in there, they have got to have a product that comes onto the site. All the unfortunate history aside, they are either doing business or not. Somewhere along the line, they have to make a decision here.

Chair Blakey restated that he understood that Omaha Track needs to decide whether they will stay or move on. He noted that Jeff Peterson was at the meeting for the special use permit for the operation on the property in Hazen and pointed out that Mr. Peterson has been aware that all of this needed to happen for a very long time. He further said that we are in a unique position because those requirements were there when the special use permit was granted, and he asked planning staff to verify if that is correct. Dean Patterson replied that to a degree, but not all of them. Chair Blakey agreed that some of them came along after the fire, and there has been a substantial amount of time that has passed since then. He stated that Omaha Track needs to tell the commission whether they want to continue business in Churchill County. Jeff Peterson remarked that they do, but they need to be able to do business. Chair Blakey pointed out that there were parameters that were set by the county and your company agreed to them to operate at a certain level until certain things were met. There was a general agreement between staff and Mr. Peterson. That is where we are today.

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

Member Hyde inquired how many ties were on the site right now, and Meg Ridge responded that as of this morning there was a little over 14,000. Member Hyde noted that the last report that he received was 19,000, so that has gone down. He further commented that in order to stay in business they would probably need to ramp that up to 50,000. Jeff Peterson replied that it needed to be at least that amount at a bare minimum. Member Hyde pointed out that the condition of going over 50,000 is to construct a building to house the fire trucks to which Mr. Peterson confirmed. Member Hyde remarked that the decision about staying in business or not is up to them, and they have a contract for another year. He asked if during that year, they would have 50,000 ties. Mr. Peterson responded that he could bring in 50,000 ties pretty quickly, but at this point, he can’t bring in any. They are going backwards. They are removing the ties. They are uncertain of what they should do. He said that he has a property north of here, and they need to decide whether to stay here or go north. Member Hyde again mentioned that in order for them to be profitable, they need to increase the ties to 50,000 at the very least. If they want to go above that amount, they need to put up a building. The last time they met with Omaha Track representatives it was stated that this would be done by November 2023. Jeff Peterson replied that was a little ambitious, and he wasn’t sure why that was said. They did purchase a building, which was onsite, but after that last meeting where everything was

cut off, he wonders if he really wants to sink \$1 million into a facility that might not be of any value to him in a year and a half. Member Hyde inquired how soon they would make their decision, and Mr. Peterson said that right at this point in time he will probably sell the building they purchased and do the bare minimum of what is required. They may look at a Quonset hut or something of that nature to house the water trucks in, but not the million dollar building that he was going to put up. He had this grand scheme of bringing in and making it like a western maintenance facility for his operation, which was going to be in Hazen, and they were going to sell used equipment, railroad stuff, etc. It would have been a small, western mecca for railroad equipment. Right now, he just doesn't know what to do. He is planning to do the bare minimum of what has to be done in order to appease the commission and make this happen. He doesn't want to be a bad neighbor, and they want to do what is right. He continued sharing the problems they have had with this location for the last few years that made things difficult. Mr. Peterson said that they will build the building for the trucks and do what needs to get done. They want to operate here and think that it is a great deal. If they can get this thing going in the right direction, they want to invest.

Member Diehl asked regarding the numerous piles of ties along the railroad on the Reno Highway. She wondered why they weren't in their yard. Jeff Peterson answered that those are not theirs. They belong to a competitor that he said the county doesn't want doing business here. There was discussion about these being in the railroad easement, and it would be up to Union Pacific to get them removed. Jeff Peterson remarked that when they came to this location, they planned to put in a rail served industrial park, but they hit a big roadblock with the railroad.

Member Picotte expressed his opinion that no one on this commission is trying to kick you out of Hazen. We want the infrastructure and the business to be here. We only put up guidelines that are in black and white that are to be followed. If Omaha Track wants to renegotiate what was put in writing, then that would be a different route you would need to request. You might need to postpone this for 30 days and come up with something different regarding the building and everything else that they need to do there. At this point, it is up to you if you want to do it. We want you to stay, but if you don't want to, you don't have to. If you want to put a different building up, that is your prerogative. Jeff Peterson agreed that they need to figure out something else to do with the building and get the other boxes checked off, so that the commission doesn't have to keep dealing with them.

Chair Blakey explained that before them at this meeting is to determine if they will extend your timeframe for implementation of the special use permit, and the business decisions that they need to make are not part of this commission's concern. He noted that there are seven items that they agreed to comply with that have not been completed. He asked Mr. Peterson to speak to those items and questioned if he is aware of them. When can they have each of them completed or what goal they have set for meeting the condition? Jeff Peterson said that he could address these.

- 1) Roads, driveways, parking lots, and loading areas shall be paved or graveled.
- 2) Fire Protection plan – insulated building for the water trucks.
- 3) All non-tie, outdoor storage must be screened (like a fence).
- 4) Landscaping – Director Spross remarked that he thinks they have submitted a draft to Dean Patterson, who is reviewing that.
 - a. Sound berm – Director Spross approved a grading permit for the sound berm, and as he understands that is all but complete.
 - b. Parking lot landscaping requirement with the ADA parking will be completed with

the building.

5) Impact fees and water requirements.

Director Spross commented that they are making progress. He just wonders when the rest is going to be done. Chair Blakey noted that these items are what keeps bringing Omaha Track back in front of the commission. Jeff Peterson remarked that he wants to get this done. The building is going to be a little tricky. The building, parking, gravel, etc. is going to be tied together a little bit. Director Spross brought up that they were always focused on getting the ties below 50,000, and they are well below that now. He pointed out that in the fire plan the conditions for the permissible rail tie storage quantities allows Omaha Track up to 50,000 ties, but they need to begin construction of that building. He said they have had several conversations about structural engineering being done or in process. He doesn't know where any of that is now, and he's not sure if they have put a halt to that because they are trying to make a decision on whether you stay or go. If they can show progress toward construction-not just pull a permit and sit on it (not do anything), they can have up to 50,000 ties. Staff, nor the commission, has said that they have to be at 0 or 10,000. For them to go over 50,000 ties, they have to have the building completed. Once the building has been completed and signed off by the Building Department, they can go up to 150,000 ties that is allotted by the special use permit.

Member Goings clarified that Mr. Peterson said they have a building, but he is now talking about selling that building. What is the problem with that building? Jeff Peterson answered that it is bigger—15,000-16,000 square foot building. It was designed to be a big shop/office, and it was going to take \$1 to \$1.5 million to construct it, plus the parking and so forth. They would have been into it for \$2 million. They were going to build it, but then the uncertainty came into play. They weren't sure if they should invest that much money because the economy wasn't doing so well. Now, they are thinking about a smaller building that can house the trucks for a quarter of the price. It would also provide some facilities for the staff. Dean Patterson reminded everyone that when Mr. Peterson mentioned a Quonset hut, the office and restroom could be included inside that as well. Jeff Peterson said they just need to decide if they want to build a big shop or just a building to house the trucks. Member Goings restated what he understood from the discussion that they bought a building that they thought they wanted to build, and in the interim they've decided that you might possibly want to do something else. Now we are back to getting a structure with engineered designs that they could use to just get moving forward. He's not sure what the Building Department will require for the permit.

Member Nelson remarked that he doesn't see that there is a crossroads here except in Mr. Peterson's mind. The commission approved the application for the permit to allow up to 50,000 ties, and they had all of the parameters in place, and all they had to do was go forward with that list, and they could have gone forward with their building, your ties, and your business. Omaha Track hasn't done those things, and so the only thing that is holding them up, or creates a gray area in his mind, is them not performing. If you do the things you were supposed to do, then you could move forward. Jeff Peterson didn't agree with that because they would have to spend \$1 million dollars on a place that may not have a business. Member Nelson pointed out that it wasn't because of the commission's decision. Chair Blakey noted that their company agreed to this, so that is the only reason that everyone is here. There was some discussion about the comments made. Chair Blakey stated that they agreed to these items to be completed, and they have not done that. If the company's intentions are to leave after their contract is up, then say that. Jeff Peterson responded that the contract may be renewed. He said that everyone needs to

understand that this is a fluid situation; he is a contractor and is subject to contracts made. Chair Blakey pointed out that every business is a fluid operation. Mr. Peterson remarked that the county expects him to drop \$2 million on a facility that, frankly, has been nothing but trouble for him. Member Goings commented that no one here is asking them to drop \$2 million. He further stated that the discussion tonight clarified that they may not have to do that. They are the ones suggesting to use a Quonset hut instead. It will be an investment; they will have to make an investment into the business. Nobody is asking that they have to spend \$1.5 to \$2 million in the facility. The parameters are there, but it doesn't mean that they have to spend what Mr. Peterson is talking about. There are other options available, and Mr. Peterson has already mentioned a couple of things that would reduce the cost. Jeff Peterson replied that it will still be expensive, and here we are in these contentious deals again. It is frustrating for him, and he doesn't know where they stand a lot of the time. He knows that it might be on his end, but he's not used to this. They have a lot of facilities in other locations, and this one is different.

Member Hyde expressed his opinion that the commissioners want them to be successful. He has compassion for him by stating that they can't invest \$2 million, and they want to do something smaller, have to pivot, or to make a different plan. He thinks that we can move forward if they are willing to do some things like that. If they are given a year to complete these items, and if they want to go with a smaller building, he doesn't see why that holds them back. Member Picotte said that he doesn't believe the commission put any numbers on the building. They didn't put any kind of stipulation on the pricing. They are following the directive of the Fire Marshal. Jeff Peterson understands the commission's position, and his position is that he wanted to invest this way, and now things have changed, and he is pivoting. Not bringing ties in really hurt their business. When they got that decree, he just didn't really know what to do.

Chair Blakey asked Director Spross for clarification that Omaha Track can operate and have up to 50,000 ties without the building being there, as long as they are making progress on the seven items that are not in compliance. Director Spross verified this as correct. Prior to exceeding 50,000 ties the building has to be up and operational, and the trucks have to be housed in that building. Chair Blakey asked the applicant if he understood that. Jeff Peterson said that is what he plans to do. Chair Blakey inquired how Mr. Peterson would like to proceed—if he plans to move forward. Jeff Peterson responded that he would like to move forward. Chair Blakey went over the decision that the commission has to make. There was discussion on what the approval should include or be based on. Member Picotte pointed out that they have already given a timeline and granted an extension. Will Mr. Peterson be the one that can make this happen, or do they need to speak to someone else? Mr. Peterson said that he is the guy to be able to make it happen. Joseph Sanford, DDA-Civil, asked what kind of timeframe Mr. Peterson believes would be reasonable to get these things done. Jeff Peterson thinks that including the building, it could be next July maybe. There was some discussion about including everything to be done by the end of the extension that could be granted. There were more questions related to getting things completed that are not related to the building earlier, costs and timeframes for Quonset huts, etc. Member Hyde shared that he thinks they should extend it to next November to give them time to take care of all of these items. What they are expecting is that everything is completed. Jeff Peterson said that he understood. Director Spross added that they must not exceed 50,000 ties until the building is completed and signed off. Jeff Peterson said that he understood.

Member Goings pointed out that all of these stipulations are already in place, including the limit of up to 50,000 ties until the building is complete. He requested clarification that they

are only renewing the permit. Joe Sanford, DDA-Civil, said that they are only making a decision on the extension of time to complete all outstanding issues in the current special use permit. Member Goings then verified that they don't need to include all of those in the motion because they are already part of the record. Joe Sanford agreed.

Chair Blakey inquired if there were any public comments on this matter, and there were none.

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

Member Hyde moved to approve the extension of this special use permit until November 13, 2024 to complete the conditions for the Special Use Permit granted to Omaha Track, Inc. for property located at 1006 Nevada Street (APNs 009-251-74, 009-251-86, and 009-251-88). Member Goings seconded the motion and the decision carried by a vote of five (5) in favor (Members Blakey, Diehl, Goings, Hyde, and Picotte) and one (1) opposed (Member Nelson).

Member Blakey stated that Omaha Track has until November 13, 2024 to be completed, and he recommended that the faster they provide information to the county, the better things will probably go.

9. Action Item.

A. Consideration and possible action re: A sending site application filed by Ramiro Jose Coutinho for properties located at 1579, 1750 and vacant property on Cushman Road, Assessor's Parcel Numbers 006-851-18, 006-851-85, & 006-851-83, consisting of a total of 168.14 acres with a total of 138.41 irrigated water rights in the A-10 zoning district.

The applicant was unable to attend the meeting.

Director Spross shared information from the application and staff report. The applicant has requested that the appraisal consider the option of additional residence on APN 006-851-85. This property qualifies for the minimum standards by meeting the acreage requirement and dust requirement. The property provided community benefit by

- a) protection of military operations on all parcels, and
- b) agricultural preservation with water right retention on nearly the full acreage of all parcels that increases the easement value.

He further stated that the Sending Site Review Committee assessed the application on October 30, 2023 and recommends approval of the Sending Site. The committee also recommended a total of 222 TDRs (transferable development rights). Based on the outcome of the Sending Site Review Committee, staff does recommend approval.

Chair Blakey asked if any of the commissioners had any questions or discussion, and there were none.

Chair Blakey called for public comment. Nothing heard, Chair Blakey called for a motion.

Member Goings, based on the information provided in the application, in the staff report, and this meeting, moved to recommend the following to the Board of County Commissioners:
(a) approval of the Sending Site application for the Ray J Coutinho Family

Trust on property at 1579 & 1750 Cushman Road & other property (APN: 006-851-18, & 006-851-83, & 006-851-85) consisting of 168.14 acres, based on providing the community benefits of protecting nearby military operations and preserving 138.41 acres of farmland with surface water-rights; and

(b) approval of 222 TDRs for the same property.

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

10. Public Hearings:

A. Consideration and possible action re: A temporary use permit application for temporary quarters for hardship/caretaker filed by Jim & Sheena Darling for property located at 1320 Cedar Drive, Assessor's Parcel Number 010-072-03, consisting of 1.0 acre in the E-1 zoning district. The applicants propose to have their son, Garrett Gibbons, reside in an RV on the property to help care for his parents.

Jim Darling, 1320 Cedar Drive, was available to speak regarding this application.

Director Spross went over information from the application and staff report. The applicant is requesting a permit to place a 2011 recreational vehicle (RV) on the property for temporary quarters for hardship/caretaker purposes. The unit is already onsite and set up for use. Jim and Sheena live in the existing home, and the RV will be occupied by their son Garret Gibbons. Both of them are scheduled for upcoming joint replacements for which their son will be providing after care assistance. They also provided proof that at least one of them are over the age of 70, and therefore, does not need to provide medical documentation. The RV will connect to the home's existing power and water, and the occupants in the RV typically use the restroom facilities inside of the home. The RV is equipped with a holding tank that Garrett empties at the fairgrounds as needed. Director Spross also noted some items mentioned in correspondence from the Building Department and provided a copy to the applicants. He noted that the department staff has reviewed the application and verifies that it meets the criteria with the inclusion of the following recommended conditions:

1. *The temporary quarters must comply with Churchill County Code.*
 2. *All Building Department permitting must be completed within 30 days, including inspections of water, electrical connections, and either connection to the home's septic, or providing proof of a septic pumping service contract for emptying the RV's tanks on a monthly basis.*
 3. *The temporary quarters must use temporary construction practices. It may not be placed on a permanent foundation; and must use the existing water well and power supply, unless deemed infeasible by the Building Department.*
 4. *When the temporary quarters is no longer needed, it must be removed from the property or otherwise made to be conforming according to county requirements.*
 5. *This temporary use permit is subject to annual renewal providing proof that the need still exists.*
- Department staff recommends approval of the permit.

Chair Blakey inquired if the applicant had any additional comments, and he did not.

Dean Patterson, Senior Planner, wanted to clarify with the applicants that he did contact the Building Department and was informed that they don't have to connect to the septic system. The Building Department does want them to have a contract with a septic pumping service, so that the RV can stay onsite and not have to be moved. Jim Darling said that they contacted a couple of the companies that stated they don't have a contract, but would come out when called. Dean Patterson told them to work it out to the satisfaction of the Building Department.

Member Goings wanted to make sure that the applicants see the five requirements that were mentioned if the permit is approved, they understand them, and they are comfortable with them.

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

Chair Blakey called for public comment.

Carl Hagan, 1295 Cedar Drive, said that he received a letter about this application, and he doesn't have any issues with this being approved. He encouraged the commissioners to approve it.

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

Member Picotte, based on the information provided in the application, in the staff report, and heard tonight, moved to find that the criteria found in CCC 16.08.070(B)3 have been met and therefore approve the Temporary Use Permit for Temporary Quarters for Hardship/Caretaker for Jim and Sheena Darling on APN 010-072-03. This approval is subject to conditions, as listed in the Staff Report. Member Hyde seconded the motion and the decision carried by a unanimous vote.

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

B. Consideration and possible action re: An application for a variance from CCC 16.16.020.2.A friction zone requirement filed by Antonio Romero for property located at 8920 Ara Lane, Assessor's Parcel Number 007-151-85, consisting of 1.0 acre in the C-2 zoning district. The applicant obtained a special use permit on September 13, 2023 to operate a fabrication business; however, the shop building to be used is less than 100' from another residence.

Nancy Moran and Antonio Moran, 8920 Ara Lane, were available to speak regarding this application.

Director Spross informed that this application is for the friction zone requirement. He provided some information from the application and the staff report. The applicant proposes to establish a gate and panels fabrication business on the property with the home serving as the office. An existing shed on the west property line serving as the fabrication building. A special use permit for this use was approved by the Planning Commission on the September 13, 2023 meeting. Commercial uses such as this are subject to the following friction zone requirements when located next to residential uses. A 100' building to building separation, an 8' wide landscape strip, and buffers along all common property lines to minimize visual and noise pollution may be required up to and including an 8' high sound wall at the discretion of the Planning Department. The house to the west is 48' from the existing fabrication shop. This separation does not meet that 100' requirement, and the applicant is requesting a 52% reduction from the required 100' separation to 48' in order to be consistent with the existing distance between the two structures. The property to the west is under the same ownership as the property where the fabrication business will operate. The applicant has committed to installing the 8' wide landscape strip along the east and west sides as well as a 10' wide landscape strip along Ara Lane. The Planning Department has determined that the 8' landscape strip provides a sufficient visual buffer, and additional noise buffering, such as a sound wall, is not necessary. No comments were received either from the public or other departments. The staff has reviewed the application and verified that it meets the four criteria with the inclusion of recommended conditions. Therefore, the staff recommends to approve the variance, and there is only one recommended condition:

1. *The County Code Friction Zone 100' building to building separation requirements have been reduced to the existing separation between buildings – being approximately 48'.*

Chair Blakey inquired if the applicant had any additional comments. There were none.

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

Member Diehl verified with the applicant that they own all of the properties that are involved, and Nancy Moran replied that her mom, his wife, does own the properties. Member Diehl commented that it wouldn't place a burden on a different owner.

Director Spross understood that the home on the adjacent property is not occupied at this time, and Nancy Moran agreed. Chair Blakey questioned if they plan to have occupants in the future. Nancy Moran responded that they haven't made a decision about that yet. It is currently being renovated right now. The plan wouldn't include using it as a residence to anyone other than family.

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

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

Member Goings, based on the information provided in the application, in the staff report, and heard tonight, moved to find that the criteria found in CCC 16.08.090(F) have been met and therefore approve the Variance for Antonio Romero on APN 007-151-85. This approval is subject to conditions, as listed in the Staff Report. Member Diehl seconded the motion and the decision carried by unanimous vote.

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

- C. Consideration and possible action re: A special use permit application for a home business filed by Alexis Peru for property located at 5260 Desert Hills Loop, Assessor's Parcel Number 008- 176-22, consisting of 1.0 acre in the E-1 zoning district. The applicant proposes to establish a makeup studio that will include general makeup services, permanent makeup, and retail sales of cosmetic products.

Alexis Peru, 5260 Desert Hills Loop, was available to speak regarding this application.

Director Spross shared information from the application and staff report. The applicant is requesting a special use permit for a home based business to establish a makeup studio that will include general makeup services, permanent makeup—tattooing, and retail sales of cosmetic products with a maximum of three customers per day though fewer are expected. The applicant proposes operating hours of Monday-Wednesday from 2:00 p.m. to 8:00 p.m., and Thursday-Saturday from 7:00 a.m. to 1 p.m. The applicant has been working with the health department and necessary state agencies to secure the required licensing. A building permit was issued on March 28, 2023 for the placement of a prefabricated storage shed on the property. No other permits pertaining to a makeup studio have been applied for. Staff confirmed during a site visit that the interior of the prefabricated storage shed has been finished and set up for a makeup and permanent makeup studio, complete with a restroom. A commercial business building must be permitted, constructed, and inspected to comply with the 2018 International Building Code, the 2018 Uniformed Plumbing Code, and the 2017 International Code Council A117.1 standard for accessible and usable building and facilities, in addition to all Churchill County Municipal Code requirements. To date no inspections have been requested, nor performed for this project, and for

this reason the structure is unpermitted. Since customers will stay at the site for services, ADA (Americans with Disabilities Act) accessible bathrooms and entry areas are required. Normally, a home based business is reviewed under an over the counter permit where they must meet 8 criteria of Churchill County Code, which would help them to be nearly unnoticeable to neighbors. Businesses that cannot meet those criteria because they have impacts on neighboring residences can apply for their home based business through a special use permit (SUP). The proposed makeup studio cannot meet several of the criteria due to exterior alterations and customer visits. A home based business applying for the SUP must meet the criteria of Churchill County Code. Director Spross shared some comments that were received. The Building Department revealed a permit was issued to build a 288 square foot storage shed on March 28, 2023. The expiration date for that permit was September 28, 2023. They noted that no inspections were requested or performed for this project. A letter was sent to the owner to request verification of the status of the project, and as of October 17, 2023, no response had been received by their office. If no response is received by October 30, 2023, this permit will be voided. No other permits for a makeup studio had been applied for. A storage shed may not be used as a commercial business building. Department staff has reviewed the application and has determined that the unpermitted structure poses an obstacle to recommending approval, and therefore, at this time, the staff is recommending denial of this permit application due to the unpermitted structure.

Chair Blakey inquired if the applicant had any additional comments. Alexis Peru responded in the negative.

Joe Sanford, Deputy District Attorney-Civil, inquired if the applicant planned to work with the Building Department to bring the building into compliance and come back for this application, or if she just planned to do something else. Alexis Peru said that she plans to rent a commercial location.

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

Chair Blakey inquired if there were any public comments, and there were none.

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

Member Nelson, based on the information provided in the application, in the staff report, and heard tonight, moved to find that the criteria found in CCC 16.08.080(H) have not met and therefore deny the special use permit for a Home Based Business for Alexis Peru on APN 008-176-22. Member Goings seconded the motion and the decision carried by unanimous vote.

D. Consideration and possible action re: A zone change application filed by Philip & Tonya Case for property located at 5720 & 5730 Reno Highway, Assessor's Parcel Number 008-531-76, consisting of 3.57 acres in the C-2 & E-1 zoning districts. The applicant proposes to change the parcel to E-1 zoning (except for driveway) in order to replace the existing home with a larger residence, which would not be permitted in the C-2 zoning where the home is located.

Philip & Tonya Case, 5730 Reno Highway, were available to speak regarding this application.

Director Spross said that this application is for a zoning map amendment for a split zoned E-1 and C-2 parcel to primarily zoned E-1. This is a flag shaped parcel that is zoned C-2 approximately half with E-1 zoning on the north end. The applicant is requesting to change the zoning to E-1 except for the long, slender flagpole portion at the southwest corner, which will remain C-2 for continuity between the abutting C-2 zoning districts. The applicants wish to replace

the existing, dilapidated home with a newer, safer, and more appropriately sized single family home to meet the needs of their family, which would not be allowed in the current C-2 zoning. There are no plans for further development. The zone change would match the existing land use and be consistent with the surrounding residential and agricultural land uses. Because the existing home falls within the area zoned C-2, if this rezone request is denied, replacing the dilapidated single family home would not be allowed. Director Spross continued going over the required findings that the Planning Commission and Board of County Commissioners should make. Staff has reviewed the application and verifies that it meets the two criteria, and staff comments are provided in the packets. Based on the information provided, staff does recommend approval of this zone change. He further noted that if the Planning Commission does wish to approve, the motion for this item is incorrect. The motion for this item is a recommendation to the Board of County Commissioners.

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

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

Chair Blakey asked counsel for a suggestion on the motion. Joe Sanford, Deputy District Attorney—Civil, shared how he recommends the motion to read (see below). Chair Blakey called for a motion.

Member Hyde, based on the information provided in the application, in the staff report, and heard tonight, moved to find that the criteria found in Churchill County Code 16.08.060(E) have been met and therefore recommend to the Board of County Commissioners the Zoning Map Amendment for Philip and Tonya Case on APN 008-531-76 be approved. Member Diehl seconded the motion and the decision carried by unanimous vote.

Diane Moyle stated that the recommendation would be forwarded with the application to the Board of County Commissioners' meeting on December 7, 2023.

E. Consideration and possible action re: A special use permit application for Mineral Extraction and Processing filed by Scott Kunz of Global Services Group for property located on Bango Road, Assessor's Parcel Number 007-011-82, consisting of a total of 40.39 acres (facility ~3.0 acres) in the RR-20 zoning district. The applicant proposes to operate an ore processing site with two buildings.

Billy Anderson, Lumos & Associates, 950 Sandhill Road, Reno, was available to speak regarding this application.

Director Spross shared information from the application and staff report. The application is proposing to permit a new mineral processing facility. This special use permit (SUP) application is accompanied by a variance application to waive the landscaping requirement because of the remote desert location, which is the next item on the agenda. Its approval or denial does not affect the viability of this project. He explained that small batches of ore from different previously explored sites, such as tailing piles, around the region will be brought to this location and processed to determine if it is financially feasible to reprocess those tailings. Input ore would be ground up and gravity sorted to extract the metals. Chemical alteration is not proposed. The processing building will enclose the processing equipment, which will in turn contain the processing activity. After processing, the waste rock will be returned to the original site. Water will be used and recycled, and the wastewater will be diverted to a holding basin for evaporation with solids being removed as

needed. Operations will be standard workdays and work hours. Night operations are not proposed and would need additional SUP review. The applicant expects to operate the site with three employees and one daily truck delivery. The property fronts Bango Road. This portion is north of both the Safety-Kleen refinery and the point where it crosses the Truckee Canal to run on the west side of the canal. Continuing north, Bango Road crosses the county line where it eventually crosses the Truckee Canal again to reach Farm District Road and US 50-A. Bango Road has several difficulties for use by development, which are described in a little more detail below.

Director Spross noted that the office did receive some comments. A copy of the Building Department's response will be given to the applicant. There was also a comment received from the Fire Department regarding the access roads to reach the site that are insufficient; however, both bridges providing access over the canal will need to be looked at by an appropriate engineer to determine whether the bridges will support a load of 76,000 pounds for fire apparatus. Upgrades, as determined by engineering, shall be provided. The buildings shown on the plans will require approval from the State Fire Marshall's office prior to any construction beginning. Director Spross also received public comment from Phillip Keller, which was more of a list of questions. He responded to assure Mr. Keller that these questions were going to be discussed at the meeting, and if any come up that are not discussed, he will read them into the record.

Director Spross went through the criteria and findings from the staff report.

- 1) Is this compatible with existing surrounding land uses and development? There are a number of mining sites that exist in the area around a third of a mile away. Typically, mining and processing operations create compatibility problems with nearby residences, but the adjacent one is distant and is screened by a hill. In addition, all processing will be done in a building, which contains all of the processing equipment.
- 2) Is it in substantial conformance with the Master Plan and policies and will be constructed and operated in full compliance with this code? The zoning district for the site and surrounding area along Bango Road is RR-20 for some distance in all directions. Mineral extraction and processing is an allowed use in that zone, but it must be reviewed through a special use permit, which is why this is before the commission today.

There are legal and physical access challenges, and this is why he wanted to bring this up. The issue is a challenge for the project that needs to be overcome, but that may not be possible. The code requires that new development must have legal and physical access. In addition, there are two TCID (Truckee Carson Irrigation District) bridges over the canal that Bango Road crosses that the code requires to be checked for adequacy. Dean Patterson, Senior Planner, can get into that in more detail shortly. Physical access means a road that at a minimum meets fire truck accessibility standards, generally being 20' wide with a driving surface that has gravel or better and is capable of providing all weather access for heavy fire trucks. The physical access for this site would be Bango Road, which generally meets those requirements. Bango Road shows up on the USGS (United States Geological Survey) maps in the 1980s and were probably built by local mines to get their product to market. The main issue is the maintenance of the surface, which easily gets wash boarded. A recommended condition would require that the applicant work out a shared maintenance arrangement. The canal bridges—Bango Road crosses the Truckee Canal with bridges at two locations, and the proposed site is between both of those bridges. These bridges are strong enough for mine delivery trucks being rated for 80 tons, but are only single lane bridges. In addition, the NDOT bridge inspector has identified structural deficiencies that need to be fixed. These bridges are signed for authorized users only. TCID has been contacted, and they have been trying to determine the origin of the bridges with the Bureau of Reclamation. It appears that they may be private

bridges, but that is still unclear. Private ownership complicates the legal access issue. If they are private, the ownership needs to be determined along with their maintenance. This, in turn, means that permission to use the bridges is needed, and contribution towards maintenance needs to be determined. Legal access means a continuous chain of easements reaching to the publicly maintained road. The area around the segments of Bango has many dirt roads; the official easements and status of roads, including Bango, are confusing. Staff is recommending that if this approved, that no building permits be approved until documentation showing legal access is provided.

- 3) Does this project adequately mitigate road and traffic impacts generated by the construction and build out of the project? While business traffic may be expected to reach the site via the Reno Highway from the north, traffic southward from the site must pass through questionable road conditions. Staff recommends a condition that all business traffic on Bango Road to the south of the site be prohibited, and all business traffic—employees, trucks, etc.—must be strictly controlled by the company and directed to use Bango Road north of the site.

Because of some of these complications and because of some of these unknowns, at this time staff is recommending that this item be tabled until physical and legal access is obtained, specifically relating to the use of Bango Road. The following must be completed:

- 1) All business related traffic southward from the site is prohibited, including employee traffic. All traffic shall be northward of the site.
- 2) Documentation of legal access to the site shall be provided to the Public Works Director. This includes obtaining any new easements for access.
- 3) Documentation of authorization to use the access bridge north of the site, and documentation from the NDOT bridge inspector that repairs or corrections have been completed shall be provided to the Public Works Director.
- 4) Documentation shall be provided to the Public Works Director showing an arrangement for shared maintenance of Bango Road with the party, or parties, currently maintaining the road.
- 5) Documentation of authorization to use the canal crossing bridge shall be provided to the Public Works Director from the parties and agencies responsible for the bridges.

Because we are missing much of that documentation, the department requests that this item be tabled until it can be provided.

Chair Blakey questioned if the staff and applicant have any kind of mutual agreement about how much time would be needed should the commission table the item. Director Spross stated that Dean Patterson, Senior Planner, has been talking to the applicant. Dean Patterson reported that the latest information from the Bureau of Reclamation was just received, and he hasn't been able to communicate that with the applicant. Concerns were raised about going to the south because there are some road problems and that bridge, which is closer to Bango refinery, is in very bad shape. There is major work that needs to be done on it, which is one of the reasons staff recommends that all of the traffic go north. The bridge to the north has some deficiencies, but they are not nearly as bad. We want to make sure that these bridges are safe, and the Bureau of Reclamation is insistent that the bridges be maintained in a safe condition. The applicant would need to work with the owners of the bridges to make sure that all these things take place. The Bureau of Reclamation (BOR) has provided some documentation that they've already approved these bridges for the private use of three businesses—Imerys Filtration Minerals, EP Minerals, and Bertagnolli. They built the bridges and have financial responsibility for them and their maintenance. BOR also has documentation that those companies built the road with appropriate easements across the federal portions of the road length. Mr. Patterson stated that he doesn't have any information about the

private segments. The applicant would need to apply to BOR to get permission to use those roads for themselves as well. They would also need to participate in the maintenance of those roads. These agreements include both permission to use these facilities and would also require maintenance participation. As part of the applicant getting the situation in a condition to operate, they will have to work with BOR and the existing mine or other companies in order to make this work. This is why Director Spross recommended that the decision be postponed until we know a little bit more. He doesn't know how long that will take. Billy Anderson, the representative here, has talked about pursuing those permissions, but he doesn't know how far he has gotten.

Chair Blakey inquired if the applicant had anything to add. Billy Anderson suggested that instead of tabling this, they are comfortable with the conditions that have been recommended in the staff report. They are comfortable with all of the access, maintenance requirements, etc. He asked that the commission approve this SUP at no risk to them since the conditions are written in a manner that they have to get all of these approvals anyway before they can get a building permit. Instead of hanging his client up with additional uncertainty, he would like to get the project moving forward at no additional risk to the county or to safety.

Director Spross is certain that Mr. Anderson was here during one of the previous agenda items we had where certain conditions have not been met over several years and months, so he is very hesitant about allowing this to move forward based on the conditions. That turns this process back to a potential code enforcement issue where they are chasing down whether conditions are being met. In terms of holding the applicant up, the applicant would not be able to move forward until those conditions were met anyway. All the county wants is verification and documentation that they have been met, and then move forward with the approval.

Member Diehl questioned how long would be recommended for tabling this item. Director Spross responded that if the Planning Commission does the tabling, it is typically done for 30 days, until the next meeting; however, the applicant can make a decision and recommend a different timeframe in which they think they could gather the requested information. It depends upon who is requesting the tabling/postponement. Member Diehl then inquired if they decide to table this item, do they also table the variance. Director Spross said that they could move forward with the variance application. If the variance is approved, then that just becomes part of what needs to be done when the SUP is approved. It has no bearing on the SUP. Member Diehl asked the applicant how long he thinks it could take him to gather the information requested. Billy Anderson replied that the question is a fantastic one. If it were to be tabled, he asked that it be tabled up to a year. There is a lot of uncertainty here, and he doesn't want to land in the same position as some of the previous applicants. He doesn't anticipate that it will take that long, and they will work diligently so that it doesn't. He believes this project is different than the other project mentioned earlier as this project is completely undeveloped, has no permits associated with it, and no work has been done on it yet.

Chair Blakey inquired of Director Spross if there was any agreement that could be reached if the commission wanted to approve the permit today. What would be some of the stipulations that he would want to have, such as, within so many days this needs to be done, and so on? Director Spross answered that they are in the same situation as Mr. Anderson. If Mr. Anderson can't determine how long it is going to take, he is certainly not going to try. If it is the decision of the Planning Commission to approve, he would like to read all of the recommended conditions into the record, so that everybody is aware of what needs to be done. Chair Blakey restated that if the motion is for approval, prior to the vote he will have Director Spross read those into the record.

Member Goings addressed Director Spross with his agreement with Mr. Anderson that this is a bit different than the one mentioned previously in that they really cannot move forward unless

they have a building, which requires that they have all of these things done. He asked for confirmation that if they approve this application right now, the applicant really cannot move forward with any action until they have met all of these stipulations. Director Spross agreed that by the letter of the law he is correct. He is hesitant because we have gone down this path before, and if the applicant cannot move forward until all of these items have been completed, is this applicant really being delayed if we table this until all of those items have been completed. The county is taking on some liability by approving this to make sure that those conditions are all met. It becomes a code enforcement issue because now he has to make sure that somebody is making sure that nothing is being done out there, and it becomes a safety issue also with the bridges. With the NDOT inspector stating that the south bridge, which should be taken out of the equation because we do not want access from the south, is in bad condition and we aren't sure what the north bridge is like, it becomes a safety issue. We want the documentation to make sure that everything had been considered.

Joseph Sanford, Deputy District Attorney—Civil, stated that the commission is welcomed to set a tabled date for however long is agreeable to the applicant, and then, if this gets worked out sooner, the Director can put it on an agenda within about 15 days before a future meeting. It could be heard sooner than one year should progress be made. He further commented that granting something that is not as definite as you would like should be done with caution. Once this commission grants a special use permit with certain conditions, those conditions are a right, and if conditions change between now and a year from now when this gets worked out, it may not match what we think it is going to be today. He gave an example of the condition that no traffic go southbound because that bridge was in a bad condition. If in a year the maintenance agreement ends up being that they could only get permission to go over the south bridge and couldn't get permission to go over the north bridge, then we are going to have a situation where a permit has been granted in a way that prohibits the use of the south bridge. Now you have to go through an amendment process anyway. He recommends that given the level of the unknown, they should keep in mind that once the commission has granted the permit with certain conditions, those conditions are set and you can't really change them unless they are in violation of those conditions.

Member Picotte said that we were talking about the BOR giving permission to the other mines in that area to cross the bridge previously and he questioned why they are not wanting to give permission now. Director Spross clarified that it isn't that BOR is not willing to give permission, they have not been asked to give permission. Member Picotte verified that they have the authority to grant it as they did for the others, and Director Spross agreed, except that we don't know that yet as it hasn't been provided yet. Member Picotte noted for the applicant that as long as he knows who to go to it might take less time to get the answers needed. Dean Patterson stated that the bridges were private and built by these companies, so they got permission from BOR themselves to cross the canal. Use of the bridges will have to be approved by the private companies, and in addition, use of the roads on federal land must be approved by BOR. It is kind of a unique situation. We did not know these issues about Bango Road a year ago, but after a lot of investigation we've come to realize that it is very strange. Billy Anderson remarked that he and Mr. Patterson have recently spoken about this last week, and he isn't coming in unprepared. They just received this information, and they are now trying to figure out how to act on it. He thanked Mr. Sanford for his comments, and he expressed appreciation to this commission for making it comfortable to speak about the application. He would ask to request that this item be tabled for a period of up to one year with the option of coming in sooner if they can get everything figured out ahead of time. Chair Blakey verified that is his request, and Mr. Anderson agreed. Chair Blakey said that Mr. Anderson get

everything organized as soon as he wishes to, and then he can be put back on the agenda and move forward.

Member Diehl commented that she has sat on this commission for many, many years, and it is best to get all of the I's dotted and T's crossed before we begin. Billy Anderson inquired if there was a way to reduce his client's uncertainty as far as the commission's disposition towards this project, as in how likely it might be to get approval if they were to come back with all of these items stipulated. Is there some type of way in the motion that they can actually stipulate that? Joseph Sanford, DDA-Civil, doesn't see a way that they could make a motion saying that they "want to approve it, but..." without the information already coming forward. He doesn't think there is anything prohibiting the commission generally stating how they feel about the project other than the road access issue. Billy Anderson asked if there were other questions the commission might have about this project. Member Picotte suggested that everything is covered in the staff report. He could show the staff report to the client, and the client can see that the staff is recommending approval to the commission for the project. Chair Blakey stated that if things are aligned with the conditions as set forth in the staff report, the staff recommendation for approval could have a favorable result for the application. Member Goings remarked that this commission is pretty business favorable. We are looking for businesses that want to come here.

Member Hyde noted that a letter was received regarding this application where some questions were asked, and they haven't been addressed yet. He wanted to ask these, so that Mr. Anderson could answer them. He doesn't think any of them will affect the outcome based on everything that he read in the application and provided by staff because no chemicals are being used in this process. One of the questions was if there would be noxious odors that would be emitted because of this process where something becomes airborne and/or offensive. Billy Anderson responded that there wouldn't be any odors. The process that they are using is just a water/gravity separation; there are no chemicals used. All of the processing is done inside of a building, and there will be internal dust collection. Member Hyde then asked another question pertaining to noise. Mr. Anderson stated that the crushing of the rock will be done internally in one of the buildings in a ball mill, and the building will be insulated to a 70 decibel rating outside of the building, which is equivalent to a vacuum cleaner or something to that affect. As far as neighbors go, the closest one is on the other side of the hill from this facility, which is 1,000' away from them. By the time that 70 decibels outside of the building reaches that neighbor it would have decreased a significant amount.

Chair Blakey called for public comment.

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

Member Goings moved to table the Special Use Permit application for Global Services Group to establish a Mineral Processing operation on APN 007-011-82, for up to one year (November 13, 2024). Member Picotte seconded the motion and the decision carried by unanimous vote.

F. Consideration and possible action re: An application for a variance from CCC 16.16.020.4 landscaping requirement filed by Scott Kunz of Global Services Group for property located on Bango Road, Assessor's Parcel Number 007-011-82, consisting of a total of 40.39 acres (facility ~3.0 acres) in the RR-20 zoning district. The applicant requests no landscaping requirement due to the distant site location.

Billy Anderson, Lumos & Associates, 950 Sandhill Road, Reno, was available to speak regarding this application.

Director Spross explained that this application is for a variance from the landscape standards. He shared information from the application and staff report. This variance accompanies the special use permit for the business. The applicant requests to waive the landscaping requirements in Churchill County Code 16.16.020.4, and the reasoning is that the site is in the remote desert and landscaping will serve no purpose. In addition, onsite topography has a small hill between the existing home to the east and the project site. This will provide much of the visual and noise buffering that landscaping is intended to provide. Also, irrigating vegetation will be very difficult on this large lot. County Code requires a 10' wide street landscape along roads fronting the property, parking lot trees—1 tree per 25 parking spaces, landscape buffers for parking lots facing residential lots, and the friction zone landscaping, which is not applicable here. The staff has identified landscaping and certain other code requirements as problematic and plans code changes to fix them. Specifically, normal code requirements for businesses, including landscaping, may be appropriate in the main commercial and urban areas of the community, but they make little or no sense in the remote areas. Staff has reviewed the application and has verified that it meets the four criteria, and staff recommends approval of this variance. There is one recommended condition:

1. *The County Code landscaping requirements are waived.*

Chair Blakey inquired if the applicant had anything to add. Billy Anderson said that he would be happy to answer any questions they may have.

Chair Blakey asked if any of the commissioners had any questions or discussion, and there were none.

Chair Blakey called for public comment. None was heard.

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

Member Nelson, based on the information provided in the application, in the staff report, and heard tonight, moved to find that the criteria found in CCC 16.08.090(F) have been met and therefore approve the Variance application for Global Services Group on APN 007-011-82. This approval is subject to conditions, as listed in the Staff Report. Member Goings seconded the motion and the decision carried by unanimous vote.

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

G. Consideration and possible action re: A special use permit application for Off Premises Outside Storage filed by Kyle Cheek of Cheek Construction for property located at 9895 Carson Highway, Assessor's Parcel Number 007-171-76, consisting of 41.15 acres in the C-2 zoning district.

Jay Lingenfelter, 3303 Reno Highway, was available to speak regarding this application.

Director Spross shared information from the application and staff report. This is a special use permit (SUP) application for off premises storage. The applicant is proposing an off premises storage of materials and equipment, such as sand, rock, cement powder, mobile mixing trucks, and a mobile silo without a primary business located on the property. This is located on the Carson Highway, near Beasley Drive, next to Walker Lake Disposal's storage yard, and across from Welsco Drilling. Approximately five acres of the parcel will be used at this time, and that area has been cleared, graded, and improved with pit run to reduce dust and provide an adequate driving surface. The applicant is in the process of installing screened fencing across the front of the property

and 250' – 300' along each side. The remaining acreage is mostly undisturbed land with native vegetation south of the five acre project area. Access is from an existing permitted NDOT approach on the Carson Highway. The applicant intends to use the site to store concrete construction materials in three sided material storage bins that are accessible by front end loaders. They intend to have a mobile silo onsite to hold and disburse cement powder into the mobile concrete mixing trucks. No concrete mixing will occur on the subject property. The applicant has applied for a well permit, but until approval is received water from an approved source will be brought to the site using water trucks. A temporary shed and power will be installed on the site. The applicant will use portable job site lighting until permanent lighting can be installed, and they have agreed to shine the lights downward to meet dark skies requirements. There are 1-6 employees and 1-6 material deliveries anticipated daily with a maximum of 60 trips, which is in and out. Operating hours will be Monday through Friday from 5:00 a.m. to 5:00 p.m., Saturday from 5:00 a.m. to 4:00 p.m., and Sunday as needed. No nighttime operations are proposed at this time, and the applicant would need specific SUP approval for this if needed in the future. Employees will arrive, load the mobile mixing truck, and leave in the truck; they would return to reload with materials as needed. Employees are not to remain onsite until a new SUP has been approved for the installation of an office with restrooms. There will not be any customer traffic to the site.

Director Spross noted that staff received a few comments related to this item. A copy of the Building Department's letter will be provided to the applicant. There were comments from the Fire Marshall, who didn't see any issues with the property regarding proper access, and stated that any fuel storage shall meet secondary containment requirements set forth in the International Fire Code. Any fuel dispensing appliances shall meet the requirements of the International Fire Code. Fire extinguishers of an appropriate size and quantity shall be provided for compliance for the International Fire Code. Any inhabitable structure shall be approved by the county. The Nevada Department of Transportation (NDOT) also submitted comments. The project is directly adjacent to the Lincoln Highway, which is an NDOT maintained road, that is officially designated as US- 50 and functionally classified as an other principal arterial. The project proposes access to US-50 from an existing access, a trip generation letter with trip distribution for the development will be required for determination of possible mitigation and if a traffic impact study, per NDOT's terms and conditions relating to right of way occupancy permits will be required. The access to US-50 from an existing access will require improvements to meet the current requirements of NDOT's access management systems and standards. Since the site is located directly adjacent to US-50 and has the potential to affect area drainage patterns, the applicant should be required to obtain an occupancy permit from NDOT for the drainage encroachment. All work proposed within or adjacent to the US-50 right of way will require an encroachment permit and must comply with NDOT standard plans, access management system and standards, terms and conditions relating to right of way occupancy permits, and the drainage manual current version at the time of application. Please contact the NDOT District 2's permits office for information. Director Spross said that he will give Mr. Lingenfelter a copy of the letter if he doesn't have one. This letter does not provide for approval or disapproval of any improvements proposed by the project. NDOT review during the occupancy permit process may result in modification to the proposed improvements or denial.

Director Spross commented that staff has reviewed the application and verified that it meets the five criteria with the inclusion of the recommended conditions, and any staff comments are included in the members' packets. The recommended conditions are as follows:

1. *This permit is subject to annual review by the Planning Commission to check compliance with conditions of approval and code requirements until such time as they determine that additional*

review is not needed.

2. *Employees must come and go as described and may not be stationed onsite until permanent restroom facilities are installed with the approval of a new Special Use Permit.*
3. *The site must be operated in conformance with County Code.*
 - a. *Outside Storage screening shall enclose the full ~5 acre project area. A sight obscuring dirt berm is acceptable across the south end of the project area. Screening must stay out of road easements, and allow for landscaping along the road frontage.*
 - b. *Temporary and permanent site lighting shall meet Dark Skies standards to point downward.*
4. *Before operation, the community development fees for roads and water shall be paid.*
5. *The site must be kept tidy, and weeds controlled.*
6. *Outdoor items and equipment must be arranged in neat rows or groupings outside setbacks and contained on the subject property.*
7. *The following requirements of the Fire Marshall must be met:*
 - a. *Any fuel storage shall meet secondary containment requirements set forth in the International Fire Code.*
 - b. *Any fuel dispensing appliances shall meet the requirements of the International Fire Code.*
 - c. *Fire extinguishers of an appropriate size and quantity shall be provided for compliance of the International Fire Code.*
 - d. *Any inhabitable structures shall be approved by the County.*
8. *All NDOT permits or authorizations shall be obtained, and any NDOT required improvements shall be made.*

Director Spross said that based on those conditions staff does recommend approval.

Chair Blakey inquired if the applicant had anything to add. There was none.

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

Member Hyde questioned Director Spross regarding the fencing. How many feet were needed on both sides? Director Spross said that they just need to put slats into the chain link fencing. Member Hyde restated his question to request how far the fencing needed to go and whether it needed to be around the whole parcel. Director Spross clarified that it would be across the front of the property and then between 250' and 300' on the east and west sides of the property. On the south side of the project area because there will be a remaining 35 acres of undisturbed land, placement of a berm is sufficient for screening from that side. Member Hyde wanted to be clear that it was 250' to 300' on each side. Dean Patterson clarified that the code requires screening around the operation, using a berm is acceptable, and they have talked with the applicant about doing that on the south side. The site plan is where it indicates 250' to 300', and it just needs to go down to meet the berm to make it continuous.

Chair Blakey called for public comment.

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

Member Picotte, based on the information provided in the application, in the staff report, and heard tonight, moved to find that the criteria found in CCC 16.08.080(H) have been met and therefore approve the Special Use Permit for Cheek Construction on APN 007-171-76. This approval is subject to conditions, as listed in the Staff Report. Member Nelson seconded the motion and the decision carried by unanimous vote.

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

department will contact you to complete the process. *[Please note that after the meeting it was learned that the address for this parcel is actually 9843 Carson Highway.]*

H. Consideration and possible action re: A special use permit application for chemical manufacturing filed by Safety-Kleen Systems, Inc. for property located at 22211 Bango Road, Assessor's Parcel Number 007-071-80, consisting of 15.48 acres in the Industrial zoning district. The applicant proposes the addition of a Hydrogen Generator and throughput increase at the existing facility. *This item was postponed from the October 11, 2023 meeting.*

Chris Balhoff with Safety-Kleen, 22211 Bango Road, was available to speak regarding this application.

Director Spross shared information from the application and staff report regarding this special use permit application. The facility encompasses APNs 007-071-80 and 007-071-81, consisting of a total of 30.5 acres. This application was tabled from the October 11, 2023 Planning Commission meeting at the applicant's request. Safety-Kleen operates in the existing motor oil re-refinery on Bango Road, and they are requesting 1) to increase the oil refining volume, or throughput limits placed on the facility in previous permit approvals, and 2) to install a new hydrogen generating unit (SMP) to replace the large hydrogen storage tank and its deliveries. He has more summary; however, he knows the applicant has a presentation, which he thinks will cover all of the other items he was going to state. If it doesn't, he will be certain to make additional comments.

Chair Blakey instructed the applicant to proceed with the presentation (this was shown on the screens and will be included with the minutes). Chris Balhoff explained that they are trying to install the SMR (Steam Methane Reformer) unit for the purpose of hydrogen gas generation and to increase the throughput from 28,470,000 gallons annually to 33,300,000 gallons annually. He is the Refinery General Manager, and with him is Casey Van Patten, who is the Operations Manager for the re-refinery. Currently, approximately 28 million gallons of used oil produces two different base oil lubricants, various industrial fuels, and asphalt material. This is recycling at its best; it reduces our dependence on foreign oil imports and makes lubricants a renewable resource.

Mr. Balhoff stated that Safety-Kleen utilizes between 8,000 and 9,000 standard cubic feet per hour of hydrogen as part of the hydrotreating process. Currently, hydrogen is trucked to the facility from out of state. The SMR unit will generate the hydrogen gas onsite using a combination of steam, natural gas, heat, pressure, and catalyst. A new hydrogen compressor and surge tank will also be installed to supply the hydrotreating process. They are going to update the security fence line to contain all of that equipment. There are many other types of businesses that use this process and about 95% of the hydrogen generation in the United States comes from this process. He pointed out where the SMR, surge tank, and compressor will be located at the facility.

Chris Balhoff shared that no odors are expected to reach the community at any time from this project. Emissions will be controlled by existing emissions control units, and the increase will be approved through an air permit revision currently in review with Nevada Division of Environmental Protection (NDEP) prior to implementation. Truck traffic in general will be reduced through the SMR project. When it is fully operational, traffic could be reduced up to eight trucks per month by eliminating the liquid hydrogen deliveries. This means more sustainable operations, less trucking miles, less fuel consumption, and therefore, a reduction in their carbon footprint. This will eliminate their reliance on out of state hydrogen, which is typically delivered from California or Texas. Safety-Kleen is working on acquiring additional water rights for this project as it does require 8-9 gallons per minute of water. These water rights will be obtained before startup. Safety-

Kleen has met with the Churchill County Fire Department, as well as the staff here, regarding Emergency Response for the new unit. The design of the unit limits the amount of flammable gas volume onsite to a small amount.

Part of their request involves the amount of product they can process each year. They would like to increase from 28,470,000 gallons annually to 33,300,000 gallons annually. That is also part of their NDEP permit revision that is being reviewed currently. This SUP would match what they are requesting from the State Air Permit. The increase will be achieved by increasing feed rates, which are currently limited by the existing air permit. No equipment changes are planned at this time. No changes in odor generation are expected. The facility currently utilizes emission control equipment that is sufficiently sized to effectively destroy odors and other contaminants. Truck traffic may vary depending on the production rate, but will not exceed their current permitted limit. Most products and raw materials are shipped via railcar.

Chris Balhoff stated that since Safety-Kleen acquired the re-refinery in 2016, odors that were prevalent at the facility pre-acquisition have been eliminated. Complaints have stopped. There have been no recordable injuries at the facility since August 2021, and Safety-Kleen always puts safety first. They manage millions of gallons of chemicals each year, including oils, fuels, and asphalt. The operation is subject to a variety of regulations, including EPA (Environmental Protection Agency) and NDEP, as well as routine agency inspections. They maintain an extensive internal inspection and compliance program that ensures areas of non-compliance are identified quickly, that corrective action is completed, and compliance timelines are met. He summarized that their goal is to receive approval for the SMR unit and associated equipment and the increase in annual throughput to 33,300,000 gallons annually.

Director Spross informed the commission that the original special use permit limited the throughput to a little over 22 ½ million gallons per year. In March 2019, there was another SUP granted to increase that throughput to the current 28 ½ million gallons per year. That is about a 26% increase. This application is requesting that to go to 33,300,000 gallons per year, which is another 17% increase. The increase from the original amount approved to the current request is approximately 47%. He shared that there were some comments received. One comment from the Building Department, which the applicant will receive a copy of, basically stating that before any construction starts a building permit needs to be applied for and issued, and inspections at all phases of construction must be requested and completed. We did get one public comment from Sherry Wideman, 13991 and 13993 Cadet Road, stating, “In good conscience, and using your authority, please deny the increased product at Safety-Kleen Systems until they remove the current odors emitted from their facilities, which settle along the Carson River. This application states that sulfur dioxide (SO₂) is known to have an odor, and research will reveal that it has a pungent odor much like a just struck match. The application also states that the odor will not go past the facility boundary. Currently, only a slight breeze carries the odor off their site. History has shown that if this company states that it has no odor, the Planning Commission believes them and gaslights the surrounding residences. Please protect everyone in this area by making Safety-Kleen capture their current odors prior to allowing them to increase their emissions.” Based on that letter received from the public, he wondered if Chris Balhoff could explain exactly how odors are emitted, how they are scrubbed, how they may or may not extend passed the boundaries, etc. Mr. Balhoff remarked that this is the first odor comment that he has heard from the public since he started at Safety-Kleen, which was September 2022. As far as he was aware there were no comments for months before then. He can go over all the bad stuff that happened prior to their company taking this facility over, and, unfortunately, Safety-Kleen still suffers from some of the bad name from Bango Oil during

their running of the facility. Many changes have been made since they took over. A lot of the previous practices that were done with evaporation ponds and those sorts of things have been completely removed. All their emissions go through heaters and are further scrubbed out with scrubbers. Those emission controls are in place, and they don't emit anything directly into the atmosphere. This comment was relating to the throughput increases, but for those increases there would be no change as they still have all their emissions control equipment, which is going through the NDEP revision process. NDEP is modeling on that process, and on all of their stacks they also do frequent inspections as well to ensure that they are meeting the requirements set forth in their permit. They don't anticipate immediately stepping up their throughputs to the maximum right away; it would just be giving them a little more flexibility to expand their capacity.

Chris Balhoff remarked that this is the first comment that he has heard about odors in a long time. Director Spross understands that the perception of the previous operator of that facility has left a bad taste in people's mouths. This is a current comment, so there is at least one person out there that still feels like there is odor out there. He inquired if there were any newer technologies since the development of this plant that may help alleviate some of the odors that people do still feel exist and are commenting on. Is there anything that can be done, over and above what you are doing now, to put the public at ease that everything is being done to eliminate these odors? Mr. Balhoff he's not sure how to address this question. There are always other methods and technologies that you can take, but the one they are using is best practice. Emissions that may come off their unit go to a fired heater where they are combusted, and then they go to a caustic scrubber where they use caustic, water and packing to knock down any remaining particulates, and there is steam that comes from the scrubber stack and some minimal emissions that are monitored and regulated by NDEP. They are doing the best practice for emissions control.

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

Member Hyde inquired when Mr. Balhoff says, "best practice," how long this has been best practice. Mr. Balhoff isn't sure. Member Hyde explained that he is really interested to know if there really is better technology today. Sometimes we say best practice, and it was 10 years ago or 5 years ago. Now we have new technology that is coming along. Are you aware of any technology that is better than this? Chris Balhoff replied that as far as he knows this is the best technology. Member Hyde questioned if Mr. Balhoff has ever heard of the Evergreen Process to which the reply was, "No." Member Hyde stated that it is a patented process where 99% of the odor is completely eliminated. He said that when someone complains, it is a real complaint. They may have been blessed with a nose that can smell it, and Safety-Kleen has done marvelously well in terms of cleaning things up. The county is thrilled with it. As a commission they keep asking if there is a better way; is there a way to take 99% of this odor away. Member Hyde stated that he would send him the information he found on the Evergreen Process, which was fascinating regarding what they have been able to do. He further inquired about the caustic scrubber, what makes it caustic? What chemicals are being used? Chris Balhoff responded that it is caustic and water, and Member Hyde asked him to define what caustic means. Mr. Balhoff stated that it is Sodium Hydroxide. Member Hyde questioned if there were a way to scrub this in such a way that it separated the sulfur as a solid that could actually be taken as a by-product and sold as an amendment to soils. Not only would it eliminate the odor, but you would also create another product. If there were a process, either through a centrifuge or through another filtering system, where you would end up with a solid and no odor, would they be interested. Chris Balhoff agreed that based on their track record, they are always open and looking for better methods of protecting the environment. He said that if anyone looks at Clean Harbors as a whole company addressing all sorts of waste throughout the industry

and safely handling that, that's a big focus for the main company of which they are a part. They are interested in any way to protect the environment. Member Hyde remarked that since they are an expert in the industry and they have a lot of experience in that, he would be interested in Mr. Balhoff's review and analysis of the Evergreen Process.

Member Goings asked regarding the caustic water and whether it is run over a media, and then do the vapors pass over that media, and what the longevity is of that media. Chris Balhoff confirmed that there is packing material that allows for a good interface between the vapor and the caustic water, and that material is typically changed out every 6-12 months. Member Goings inquired how the increase in throughput would affect this process. Would it require changes more often? Obviously, if you were to run at full capacity if this commission approved it, you would be running another 17% increase over that medium. That is one of the things with scrubbers if they are not maintained, you can have the greatest one in the world, but it won't remove the odors even though it looks like it is. Member Goings then asked regarding the hydrogen generator if it would produce some odor, and if that is going to be run through some type of scrubber. Now are we going to have another odor that we are going to through into the current odors that are minimally being run through the scrubber? He pointed out that on the site plan the hydrogen unit is a long way from their scrubber. Mr. Balhoff agreed that it is. He was curious about the location of the hydrogen generator and if the emissions were going to be heavy and would settle along the Carson River. Chris Balhoff answered that the SMR unit comes as a package and will be owned and operated by the vendor, which is Air Products. Everything that comes in there is kind of their proprietary package, so he doesn't necessarily know all the details about how they treat it. He does know that the odors are going to be minimal. You take methane, which will come from natural gas, and then you've got steam, and the main reaction is giving the hydrogen gas molecules, and as a result there is a CO molecule, which can go through another reaction, and generate some CO₂ and some more hydrogen gas. The point is that the main reaction processes don't generate anything that has odor, so any odor is going to be very minimal outside of that. He would guess based upon the information he received from Air Products that any byproducts that would be coming out, which is the sulfur dioxide that people are concerned about, is going to be coming from something else in that process, such as the catalysts, and it would be very minimal. Member Goings went back to the original scrubber in their process and the 17% increase that the commission is being asked to approve. Is that going to mean that they have to change the media 17% more often, or where do we stand on that? This is what happens with these scrubbers, if they are not maintained properly, it can look like you are doing everything up front, but you are still allowing that odor to get by. He does know that if it's not maintained properly, it will create a problem. He noted that many members of this commission have heard from a lot of the residents from that area along the Carson River. Chris Balhoff agreed that they may have to change the packing medium more often, and that wouldn't be a problem for them since they do a maintenance adage on these units every 6 months, and it isn't based upon the scrubber performance. It is more driven by the fouling and coking they see in the process. When they do those, they always open the scrubbers, inspect, and usually replace the packing. In general, they will be replacing the packing a lot more frequently than is needed. All of this is regulated by the state, and they have an inspection by the state scheduled at the end of November to beginning of December related to stack testing.

Director Spross questioned if Chris Balhoff would be prepared, to give this commission some comfort, that should your throughput and/or hydrogen generating facilities increase odors or increase complaints about odors you would do something to mitigate those odors, whether that is newer technology, or something along those lines. We are going by what you say now, but we don't

really know what may happen in the future. If there is an increase in complaints and an increase in odors, whether determined by the public, NDEP, or your contractor, would you be prepared to do something to mitigate those odors? Chris Balhoff confirmed that he would absolutely, 100%. What Safety-Kleen does if that starts to crop up, they take immediate action, they start to hold public meetings, and they frequently open a hotline, so that people can get directly in contact with the facility. That has happened at other locations, and the company has a record of responding very quickly to those community type complaints. When he heard the public comment for the first time here, he planned to talk to their compliance manager and run through this. Nobody has called and complained, so he is a little surprised by this. He gave an example of another facility that is located much closer to the community than this one where he was in some meetings, and they are installing perimeter monitoring devices to detect when there are these compounds that can create odors.

Member Nelson inquired how many complaints were received. Director Spross responded that this is the first one that he has seen. He hears rumblings, but this is the first written complaint that he has seen as a result of this agenda item. As Member Hyde has mentioned, they have made considerable strides in extinguishing that reputation that the facility had a number of years ago, and the complaints have drastically reduced. Member Nelson then remarked that it should be easy to see if there is an uptick in the complaints. Director Spross agreed, and this is the reason that he wanted to bring it up. Member Goings asked if this should be added as another condition in the motion, and Director Spross stated that he believes that it is in the record as something that the organization is willing to do, and has done in the past. Unless Mr. Sanford deems it necessary, he thinks that with it being on the record that could be brought up at any time. Joseph Sanford confirmed, and obviously if there were substantial increases in complaints, there would be a separate action to enforce it. He doesn't see it as a condition in this case as it would be very difficult to word it. We could address it as a public nuisance issue. Chair Blakey said that since there is a history of complaints in the past and Mr. Balhoff did mention the perimeter monitoring, is that something that your company would be interested in just to maybe agree or disagree that there is an issue and they would have some evidence or proof that maybe a claim is false or true? He doesn't know what kind of expense that would be or what it entails, but if you've done it somewhere else, do you do it as a failsafe? Chris Balhoff answered that it would definitely be something that they are willing to explore. The meeting he was in was part of refinery sharing with the intent of potentially being leveraged to other refineries. It could be something in their future, especially if people are making complaints, that would probably be one of the first steps they would do because they need to understand what the situation is right now. All we have is people's noses and what they detect, so that would be one way to get some quantitative data, and if that becomes more of a concern, they would like to explore. Dean Patterson pointed out that there is still condition 1, which is the one year review to check in and make sure the conditions of approval are being met, and then in this case a long standing addition to that has been to make sure there are no odor consequences from a particular approval.

Member Goings asked regarding the hydrogen generating unit to verify what he understood that Mr. Balhoff said these are being used in Texas and California as the only places that are producing hydrogen with these types of apparatus. Chris Balhoff replied that was incorrect. The comment about those two states was where they typically get their liquid hydrogen trucked from. Currently, their supplier, without this system, trucks in the product from their big plants in either Texas or California. Part of the incentive to do this project is to avoid road closures due to the winter weather. Member Goings noted that this is the one unknown here. They already have a scrubber in place for everything else. He just wonders if there are any locations that they could name where it is close to a population center, and they are not having any issues with emissions.

Mr. Balhoff stated that he doesn't have any of that information as it would be part of the vendor's confidential data. Maybe they would be willing to share, but he believes there are many of these around. This is the onsite generation version that they sell. They are the same company that provides the liquid hydrogen that they currently use. The vendor's big plants use this same type of technology. He thinks that 95% of hydrogen production in the US does come from steam methane reforming, so this is a small version for onsite generation. Dean Patterson reiterated what Member Goings was saying about the hydrogen generation is the new element here. Is there a way to collect the emissions from it and just run it through the scrubber? Chris Balhoff didn't know the answer to that question. He thinks that if they looked into this, the emissions would be so minimal that it would not be worth the investment just based off of how small the emissions are. The vendor has reported the exact emissions quantities to NDEP, and NDEP asked some questions during the review process about the stack and how they could confirm exactly how much emissions were coming from this unit and whether they would have to do stack testing on this unit, and the supplier was actually able to supply stack testing on identical units that were in operation and confirmed the data that they were providing for the permitting process. Dean Patterson said that when the original refinery was going in the county was relying on NDEP thinking that they would deal with odor issues, and obviously they did not, so what NDEP looks at is particulates and hazardous chemicals, etc. They are not concerned with something that smells. Chris Balhoff added that NDEP is concerned about the molecules that cause odor, so one thing that they look at when they model and test their stacks is sulfur dioxide, which has a big odor. He pointed to the steps that Safety-Kleen has taken to address the odor complaints in the past because what they want at the end of the day is a continuation of what has been for the previous year, which is zero odor complaints from the community. Member Goings restated that he doesn't see how they would be able to tie the hydrogen unit into the scrubber for the facility. In that case, if there are odors from that unit, it would probably be more cost effective to install a scrubber specifically for that unit. That might be something that has to be investigated later.

Director Spross explained that staff has reviewed the application and verified that it meets the five criteria with the inclusion of the recommended conditions. Staff comments are in the commissioners' packets. Those conditions are:

1. *This permit is subject to review in 1 year to determine compliance with conditions, and to review any issues related to odors created by the hydrogen generator and increased throughput.*
2. *The facility is limited in its throughput to 33,300,000 gallons per year.*
3. *The hydrogen generator may not be operated until documentation is provided to the Director that water rights are held that are sufficient to operate the facility, including the hydrogen generator.*
4. *The site's operations manuals and emergency response plans shall be updated to incorporate issues related to the hydrogen generator and the increased throughput. The applicant shall inform and coordinate with emergency responders regarding the new facilities.*
5. *The truck traffic limits for the facility that are established in previous permits are not altered by this permit.*
6. *Previous conditions of approval continue to apply, except as modified by this decision.*
7. *The project must be in conformance with County Code.*
8. *All necessary building permits shall be obtained for installation of all proposed facilities.*
9. *The project must remain in compliance with all state and federal requirements.*
10. *Operations shall be conducted in a manner that does not create a nuisance (public or private) under Nevada law or Churchill County Code.*

Director Spross said that based on those conditions and the information in the application staff recommends approval.

Chair Blakey called for public comment. None heard.

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

Member Nelson, based on the information provided in the application, in the staff report, and heard tonight, moved to find that the criteria found in CCC 16.08.080(H) have been met and therefore approve the Special Use Permit for Safety-Kleen Systems Inc. on APN 007-071-80 & 007-071-81. This approval is subject to conditions, as listed in the Staff Report. Member Goings seconded the motion and the decision carried by unanimous vote.

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

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

A. Consideration and possible action re: Termination of a temporary use permit for temporary quarters for hardship/caretaker previously granted to Elizabeth Hill for property located at 1300 Lattin Road, Assessor's Parcel Number 010-581-27, in the E-1 zoning district. She stated that she no longer had need of a caretaker residing in an RV on the property; therefore, the permit should be terminated.

Member Picotte moved to approve the consent agenda as submitted. Member Hyde seconded the motion and the decision carried unanimously.

12. Public Comment:

There were none.

13. Adjournment:

There being no further business to come before the Planning Commission, Chair Blakey adjourned the meeting at 9:46 p.m.

14. Appendix:

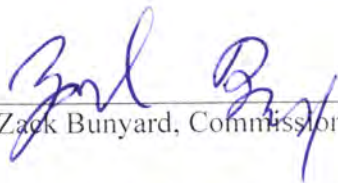
Supporting Documentation

Approved: _____

Eric Blakey, Chair

Approved: _____

Scott Nelson, Vice Chair

Approved: 
Zack Bunyard, Commissioner

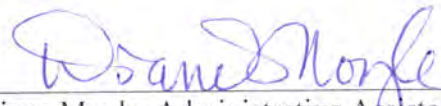
Approved: NOT AVAILABLE
Deanna Diehl, Commissioner

Approved: 
Jeff Goings, Commissioner

Approved: NOT IN ATTENDANCE
R. Mark Hyde, Commissioner

Approved: 
Paul Picotte, Commissioner

ATTEST:


Diane Moyle, Administrative Assistant