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MINUTES
CHURCHILL COUNTY PLANNING COMMISSION

12 September 2007

Chairman Mickelson called the regular meeting of the Churchill County Planning Commission to order at 7:00 p.m. in the Churchill County Administration Complex, 155 North Taylor Street, County Commission Chambers, Fallon, Nevada.

MEMBERS PRESENT:

Mert Mickelson, Chairman
Ronald Simms, Vice Chairman
Thomas Lammel, Member
Stuart Richardson, Member
Deanna Diehl, Member
Charlotte Louis, Member
Shawn Kohltfarber, Member

PLANNING STAFF PRESENT:

Eleanor Lockwood, Director Planning
Diane Moyle, Recording Secretary

CALL TO ORDER

Chairman Mickelson explained the procedures for scheduled agenda items and verified with the Recording Secretary that the agenda had been properly posted and that notification was sent to all landowners in accordance with NRS and the Churchill County Code. Then he asked for any changes to the agenda. Director Lockwood stated that there were no changes.

*Public Comments

Chairman Mickelson asked for any public comments for anything *not listed* on tonight's agenda. There were none.

MINUTES

Chairman Mickelson stated that the first item on the agenda was the approval of the 8 August 2007 Minutes.

Member Lammel moved to approve the 8 August 2007 Minutes as written. **Member Louis** seconded the motion and the decision carried unanimously.

ACTION ITEMS

The following Temporary Use Permits for a mobile home to be used on a temporary basis for hardship cases were reviewed:

William Fletcher – 4549 St. Clair Road, 006-271-09, Origination Date 10/11/2006 for his mother to reside in.

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Director Lockwood stated that we have not been able to contact Mr. Fletcher and therefore request the Planning Commission to postpone this item for one month and we will send out a letter stating that we need a response by this date, otherwise we will terminate it.

Member Richardson moved to postpone action on the renewal of the William Fletcher Temporary Use Permit in order to allow a response from Mr. Fletcher. **Member Diehl** seconded the motion and the decision carried unanimously.

Henry C. & Gladys T. Dieckmann – 1600 Lucas Road, 008-133-48, Origination Date 10/11/2006 for their grandson to reside in as a caretaker.

Chairman Mickelson asked for any comments or questions regarding this request.

Member Lammel stated that it appears they have not been able to use this particular temporary use permit, but they do state that they need it. Based on the renewal application he moved to renew the temporary use permit for another year. **Member Louis** seconded the motion and the decision carried unanimously.

Terry Edgmon – 1770 Sheckler Cut-Off, 008-631-08, Origination Date 10/14/1998 for his mother to reside in.

Chairman Mickelson asked for any comments or questions regarding this request.

Member Louis stated that based on the information provided in the renewal application she moved to renew the temporary use permit for another year, and that once the need as applied for is no longer needed, the mobile home must be removed from the property. **Member Kohltfarber** seconded the motion and the decision carried unanimously.

Bill & Gwen Washburn – 3303 Harrigan Road, 006-751-11, Origination Date 10/06/1996 for her mother to reside in.

Chairman Mickelson stated that he had personal knowledge in regard to this. Based on that knowledge and the information provided in the renewal application, and the letter from **Dr. Vaz** supporting the need of Phyllis Mathewson Perry (see attached, Exhibit “A”) he moved to renew the temporary use permit for another year. **Member Richardson** seconded the motion and the decision carried unanimously.

Frank Jr. & Linda Barron – 6875 Erins Way, 006-091-73, Origination Date 10/09/1996 for her mom to reside in.

Chairman Mickelson asked for any comments or questions regarding this request.

Member Louis stated that based on the information provided in the renewal application and the letter from **Dr. Herzog** supporting the need of Theresa Sallac (see attached, Exhibit “B”) she moved to renew the temporary use permit for another year, and that once the need as applied for is no longer needed, the mobile home must be removed from the property. **Member Diehl** seconded the motion and the decision carried unanimously with seven in favor of renewal.

PUBLIC HEARINGS

7:05 p.m. J.D. ALLEN – An application for a **special use permit** for property located at 6266 Sierra Way, Assessor’s Parcel Number 008-113-34 consisting of 5 acres of non-water righted property located in the A-5 land use district. The applicant is requesting a special use

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permit under Chapter 16.08.140.D of the Churchill County Code to build a 744-square foot garage with an office and recreation room, designed for future remodel into an accessory dwelling unit.

JD Allen stated that he didn't have anything to add to the application.

Chairman Mickelson asked for any public comments or questions. There being none, he turned the discussion over to the Planning Commission.

Member Lammel asked Mr. Allen when he planned to turn the office and recreation room into an accessory dwelling; **Mr. Allen** said they don't have any specific timeline, they were looking at it as an investment and he knew it would raise the value of the property, should they ever want to sell it. They designed the rec-room so it could easily be converted into an accessory dwelling, in case they ever want to.

Member Lammel clarified that there will not be any kitchen facilities in it at this point, just simply a wet bar and then that area could be converted into a kitchen later on. Is that correct?

Mr. Allen concurred.

Member Lammel noted that the building is approximately 24'x31' or 744-square feet, which is less than the maximum 1000-square feet, and it has only one bathroom so it is in substantial compliance with the master plan. And do you understand this building cannot be let, leased or rented out? **Mr. Allen** said yes and he had no problem signing a deed restriction to that affect. **Member Lammel** advised Mr. Allen that should he sell the property, he would need to make the purchasers aware of the restrictions because they will run with the land, from owner to owner. He concluded that he didn't see that this use would create any adverse affects such as noise, environmental, and there won't be anybody living in it at this time so there won't be any impacts to the infrastructure in that area such as extra sewage, water usage or traffic for the area. I see no problem with it.

There being no further discussion, **Chairman Mickelson** called for a motion.

Vice Chairman Simms stated, "I believe Commissioner Lammel covered all the pertinent points of the Churchill County Code relating to issuance of a special use permit for an accessory dwelling units. Therefore I move that we approve the special use permit application for an accessory dwelling unit for property located at 6266 Sierra Way subject to the following conditions:

- Acquisition of a building permit from the Building Department;
- Inspection and approval of the septic system by the Building Department;
- Recordation of a deed restriction stating that the building will not be leased or rented separately from the main residence; and
- Compliance with Churchill County Code."

Member Richardson seconded the motion and the decision carried unanimously with seven in favor of approval.

Mr. Allen asked if he would have to go through this again whenever he does do the remodel or convert this space into an accessory dwelling. **Director Lockwood** said no, that was why they suggested you coming for a special use permit now, before the structure was even built, to avoid that having to happen in the future.

Chairman Mickelson thanked Mr. Allen and advised him to contact the Planning Department for further permitting procedures.

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7:15 p.m. JEFFREY K. WHITAKER – An application for a **variance from the 200' minimum lot width** for property located at 6000 Schurz Highway, Assessor's Parcel Number 006-511-01 consisting of 50.09 acres with 45.13 acres of water-righted property located in the A-10 land use district. The applicant is requesting a variance from Chapter 16.16.020.1 of the Churchill County Code to split the property into two parcels, one having a portion of the parcel less than 200-feet wide due to the adjoining field and the existing irrigation infrastructure.

Jeffrey Whitaker said the application states their situation and he had nothing to add to it.

Director Lockwood took a moment to make a correction to the staff recommendations; under the second finding of fact it should say the minimum lot width in the A-10 zoning district is 200-feet, not 300-feet. The minimum *average lot width* is 300-feet.

Chairman Mickelson asked for any public comments or question. There being none, he turned the discussion over to the Planning Commission.

Member Richardson said this is one of those interesting situations we find quite often in Churchill County, where you have a piece of property with a pre-existing non-conforming minimum lot width, and you will still have it even after the parcel split. But this allows us to formally recognize and address it and it would allow a better use of the land out there. SO I don't see any problems with issuing a variance in a situation like this, to remedy or deal with a pre-existing condition like this.

Member Lammel noted that the section of land abutting the Schurz Highway is approximately 77-feet wide, less than half the 200-foot minimum. And the reason you're asking for this is the practical difficulty of doing anything else, is that correct? **Mr. Whitaker** said he was not sure, after everything he worked through with his surveyor it was determined that this was what we needed to do. **Thomas Cutro of TRC** introduced himself as Mr. Whitaker's surveyor and said they are attempting to divide the lot so that Mr. Whitaker can finance a home on the lot. The existing infrastructure for irrigating the field is already there and we tried to place the lot line along an existing fence line that would not interrupt that infrastructure. Unfortunately, to make a 200-foot width on this, it would definitely impact that other field and it would create more of a financial burden on Mr. Whitaker to take care of that. The property is a strange shape to begin with, with the Upper Diagonal Deep drain line running through the middle of the lot and we have the A Line canal to south, which completely destroys the 200-foot minimum lot width either way.

Member Lammel stated that basically the existing infrastructure that would be required to move is basically non-movable, so therefore you have a practical difficulty that you cannot do anything with it. He noted that this variance and parcel split will have no impact on the community since the parcel split is not providing roads or access to developable land, nor would it create any kind of a health, safety or dust impact to the neighboring properties. I see absolutely no problem with this whatsoever, based on the rules of the Churchill County Code.

Member Kohlfarber stated, "Based on the information provided in the application and heard tonight, it appears that practical difficulties exist due to the shape of the existing parcel and the location of TCID facilities through the parcel. Granting of the variance for the minimum lot width will not be injurious to the general public. Therefore, I move to approve the application for a variance for Jeffrey Whitaker from the minimum lot width for the proposed parcel split for Assessor's Parcel Number 006-511-01." **Member Richardson** seconded the motion and the decision carried unanimously.

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Chairman Mickelson thanked Mr. Whitaker and Mr. Cutro and advised them to contact the Planning Department for further permitting procedures.

Director Lockwood suggested that since there was three minutes before the next agenda item, perhaps the Planning Commission could review Mr. Whitaker's parcel map.

Parcel Map for Whitaker Trust (TCID#07-028, Highway 95) – **Director Lockwood** said the Whitakers are trying to split the southern portion of their property, so that the structures in the lower midsection are part of the southern parcel. Both parcels are accessed by a state maintained road, so there are no infrastructure requirements. You just approved the variance from the minimum parcel width, and that will all be part of the record.

Member Lammel moved to recommend approval of the map subject to all provisions of Churchill County Code including water right dedication; further recommendations of the County Building Department regarding septic systems; and approval of the variance from minimum parcel width. **Member Kohlfarber** seconded the motion and the decision carried unanimously with seven in favor of approval.

7:25 p.m. CARRIE L. WATTS – An application for a **special use permit** for property located at 727 California Street in Hazen, Assessor's Parcel Numbers 010-263-01, 04 & 05 consisting of 1.79 acres of non-water righted property located in the A-10 land use district. The applicant is requesting a special use permit under Chapter 16.08.150.D of the Churchill County Code to operate a home-based trucking company with no other employees.

Carrie L. Watts of 727 California Street, Hazen stated that she tried to put everything together in the application and she didn't have anything to add to it.

Chairman Mickelson stated that a letter was received regarding this application and asked Diane to read it for the record. The Recording Secretary read a letter from **Rich & Janet Isley** dated September 1, 2007, support of this application (see attached, Exhibit "C").

Chairman Mickelson asked for any public comments or question. There being none, he turned the discussion over to the Planning Commission.

Member Richardson stated that he was part of the group of commissioners that got to go out see the property in Hazen. One of the requirements is that it be compatible with the existing surrounding land uses and development; and just the organization of the other properties in the area and the overall view and feel of the area, I think is home-based business for a trucking company would be consistent with that. The Master Plan supports economic diversity and permits home-based businesses and I think this fits within the Hazen Master Plan. The proposed use will not require additional services and infrastructure and will not place an undue burden on existing infrastructure; they've actually paved the road out there. The number of trips per day is not increasing, other than her parking the vehicle there, so I don't see a problem. We also need to find that the proposed use does not create adverse environmental impacts such as noise, glare, fumes, and odor and would not constitute a nuisance or be detrimental to the surrounding area. As long as no major truck repairs are done on the property, I don't see this being an issue. I did not see that you plan to put up any signs and the design of the project doesn't appear to adversely affect the adjacent properties.

Vice Chairman Simms noted that this is not a change from what has already been taking place on this property for the past six years. **Ms. Watts** agreed and stated that she thought she

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had presented for her special use permit the intent of having a shop building for working on her truck and the truck operation. **Vice Chairman Simms** noted that since no complaints have ever been filed in that six years, he would agree with Commissioner Richardson that it is certainly an appropriate use for that area. And, it does abut industrial zoned property right behind it and it's close to the highway.

Vice Chairman Simms stated, "Based on the information provided in the application and heard tonight, it appears that the application for a special use permit for a home-based owner/operator trucking company meets the criteria for a special use permit. Therefore, I move to approve the special use permit for Carrie Watts to operate a home-based owner/operator trucking company at 727 California Street subject to the following conditions:

- Only one commercially licensed operational semi-tractor;
- No employees;
- Storage of all materials to comply with State and Federal laws;
- Truck maintenance to be conducted only during daylight hours; and
- No signs."

Member Louis seconded the motion and the decision carried unanimously.

Chairman Mickelson thanked Ms. Watts and advised her to contact the Planning Department for further permitting procedures.

7:35 p.m. BILL 2007-G – An **ordinance amendment** to Ordinance 32 amending Title 16 to clarify conflicts between zoning and land use regulations and existing provisions of law or private covenant. The intent of this amendment is that Churchill County Planning Commission shall not make any interpretations or interfere with private codes, covenants and restrictions.

Director Lockwood we've discussed this ordinance amendment at your last workshop, at your last Planning Commission meeting we also heard it as a discussion item. Basically it was a mistake that this particular sentence was placed into the Consolidated Development Code. The sentence we are proposing to strike from the code basically says, "Private covenants or deed restrictions which impose more restrictive conditions than herein contained are not superseded by this title", which implies that Churchill County should at least take a look at CC&Rs if those were indeed applicable. So we are striking that sentence from the code since you have never enforced or interfered with CC&Rs as that is something that is done in the private arena.

Vice Chairman Simms moved to recommend approval of Bill 2007-G to the Board of County Commissioners. **Member Louis** seconded the motion and the decision carried unanimously with seven in favor of approval.

REVERSION TO ACREAGE MAP

Geothermal Resources Industrial Park (TCID#07-060, Highway 50) – **Director Lockwood** said she hoped everyone had copies of the e-mail Mr. Kingzette had sent her, stating that he could not be here but briefly explained what he was trying to do. They own several lots within the Hazen Town Site and would like to consolidate the small lots into and remove the existing easements so they can plan either a commercial development or in conjunction with their industrial property to the north. So there reversion to acreage map is basically reverting all of these individual lots into one parcel so they can plan for and develop

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in a much more coordinated fashion. You will need to make a recommendation on both the map and the resolution for abandonment of those roadways and alleyways. We discussed this with legal counsel and rather than doing a reversion to acreage map and then a petition to abandon the easements, since Mr. Kingzette would have been the only person notified about the abandonment, we felt we could do it by map and by resolution to abandon the streets and alleyways.

Member Richardson moved to recommend approval of the map subject to all provisions of Churchill County Code. **Vice Chairman Simms** seconded the motion.

Member Lammel asked about the arced easement that goes off the map in both directions; **Director Lockwood** said it is an existing travel way or path, the people who need to get to those locations use the other roadways. It is not a legal easement.

There being no further discussion, **Chairman Mickelson** called for a vote and the decision carried unanimously with seven in favor of approval.

Vice Chairman Simms moved to approve the Resolution recommending approval of the abandonment of the existing roadway and alleyway easements as described in the legal description of the Board of County Commissioners Order for Abandonment of Easements.

Member Kohltfarber seconded the motion and the decision carried unanimously with seven in favor of approval.

PARCEL MAPS

First Cluster Parcel Map for Zellers (TCID#07-066, Sheckler Road) – **Director Lockwood** said this is a proposed cluster development off Sheckler Road. We have two maps creating the clustered parcels and the conservation easement parcels. The landowners are creating 5 building lots along a new paved road, Annamay Lane in the A-10 land use district and are putting 60 acres into a conservation easement. This gives the property owner the possibility of selling the second conservation easement parcel and per the conservation easement deed, somebody could place a home on this parcel, provided they have access and use it as nice piece of farm property. She noted that on page one of the conservation easement deed there is a correction that is being made, and the property owners need to sign it. So if you choose to recommend approval of this map, please make that subject to us receiving the corrected conservation easement deed prior to us taking this to the Board of County Commissioners. We would also like Mike Berney to address the three potential dwelling units; a single-family residence, a mobile home which a tree has fallen into, and then another structure that I believe is just less than 1,000-square feet with only one bathroom in it. The staff recommendation suggested that we wanted two homes removed from the conservation easement, because in the past you have approved only one home on the conservation easement. In discussions with Mike and Mr. Zeller, apparently they have no problem removing the mobile home, but they would like consideration to be allowed to keep the small structure, that would meet the accessory dwelling unit criteria.

Member Richardson asked legal counsel if since this second home is a pre-existing dwelling, can we grant that accessory dwelling status without going through the official application process. **Deputy District Attorney Jardine** said he felt it was fairly implicit within this application process for this body to consider this type of thing within this map review. He asked Eleanor if she had any concerns with this; **Director Lockwood** said no, since we brought it out into the record in this process and it is a pre-existing use anyway. She asked Rusty if he felt it would be best to have the property owner sign the accessory dwelling

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deed restriction, stating that it cannot be let, leased or rented out separately from the main dwelling. **Deputy District Attorney Jardine** said it would be prudent.

Member Richardson moved to recommend approval of the map subject to all provisions of Churchill County Code; construction of a paved road (Annamay Lane) 1,304-feet from Sheckler Road to Parcel A with a 60' paved turnaround at the south end; paving to be constructed to County and Orange Book standards and specifications or submission of a surety for 1 ½ times the cost of the project; recordation of two conservation easement deeds; further recommendations from County Building Department regarding septic systems; and removal of the mobile homes on Parcel 6 so that there is only one home and an accessory dwelling on the parcel. Also subject to the recordation of the deed restriction on the accessory dwelling unit, that it cannot be let, leased or rented separately from the main dwelling. **Member Louis** seconded the motion and the decision carried unanimously with seven in favor of approval.

Second Cluster Parcel Map for Zellers (TCID#07-067, Sheckler Road) – **Member Richardson** moved to recommend approval of the map subject to all provisions of Churchill County Code; further recommendations of County Building Department regarding septic systems; and prior recordation of Parcel Map 1. **Vice Chairman Simms** seconded the motion and the decision carried unanimously with seven in favor of approval.

Planning Department update regarding current issues

1. Director Lockwood reminded the Planning Commissioners that next Wednesday evening, September 19th the BOR is holding their first scoping meeting for their proposed Resource Management Plan at the Fallon Convention Center between 6 p.m. and 8 p.m. If you do have the time, I would strong recommend that you do drop in. The BOR has never been through this process before and there certainly is a nervousness on their part to do such a thing. It is very important that the BOR understands that it is the County, the City and other entities within our community that needs to lead this exercise; we are not to be directed by the BOR.
2. I did not hear from anybody that you want to attend the State Lands Rural Planning Conference in Ely in October. Mert Mickelson said he did want to go to this conference.
3. We had an informal workshop today with realtors and title companies to address requirements the county has for access to property if you want to build on it. There were about 25 to 30 people who attended and there was interest in us holding more of these informal workshops to raise the awareness amongst the community as to what the requirements are.
4. **Member Richardson** asked if Mr. Plouviez worked everything out. **Director Lockwood** said Mr. Plouviez called her a couple of weeks ago to say that he had paid his taxes as she had suggested, despite what the Navy representative had told him. He is concerned about what he considers the County to be rather aggressive in protesting many transfers and other things to do with water rights, and he vows to fight until the end, because some of the water rights are what he considers to be his and should not be taken away.
5. **Member Lammel** asked if there were any other meeting on Bango Oil. **Director Lockwood** said there was another meeting with the Board of County Commissioners and there were representatives from NDEP Air Pollution Control who presented a report to the Board about their apparent ongoing investigation of odors in the vicinity of the Carson Highway and Bango Road. Many of the residents of the area were there and they had a lot of questions for NDEP; why was this allowed to happen, why aren't you doing anything, and we

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continue to get calls in our office. We have spoken to Ron at Bango Oil and they have already installed flame arrestors, which they believe made the reactivation process more efficient, to minimize any odors coming from that. And by September 24, 2007 they hope to have an oxidizing unit installed to minimize odors coming from the evaporation process. They had intended to haul off the water from the holding pond that is part of the evaporation process on Monday and Tuesday of this week. Apparently the trucks never arrived, so we'll just have to wait for the oxidizing unit to go in. The majority of the calls coming in complaining about odors are primarily during the evening hours. As a result of the tremendous amount of energy we have all put into looking into this issue, at your next workshop meeting I am going to propose a new review process that we perhaps should consider following for any special use permits that come in, particularly in relation to processing plants, refineries, manufacturing facilities and such so we can try to avoid this type of unfortunate incident happening in the future. I still personally believe that the Planning Commission and the Board of County Commissioners did a very good job in looking at why we should rezone those two properties in that location since there was already industrial activity in the area and industrial zoning. I believe the Planning Commission received a fairly comprehensive application for the Bango Oil facility, and I don't think even if we had required an EIS that you would have got the information that odors could escape from a plant like this, because supposedly their sister plant up in Portland has had very, very few complaints. But I think it would be a good idea for us to look at a better way of doing things and making sure that we turn over all the stones that possibly need to be overturned, and just making any applicants, particularly manufacturing coming into our community, to prove up that they really have done their homework and that what they are providing to us is something that we want in this community. **Deputy DA Jardine** added that this is going to require us to step up a notch; we're going to enter a new realm of sophistry that we hadn't desired to go into before, and I think it's necessary and important on behalf of the citizens of this county.

ADJOURNMENT

There being no further business to come before the Planning Commission, Chairman Mickelson adjourned the meeting at 8:00 p.m.

Respectfully submitted,

Diane Moyle
Recording Secretary