



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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CM/ACM	_____
Finance	_____
DA	_____
Risk Mgt.	<u>N/A</u>
HR	<u>N/A</u>
Other	<u>N/A</u>

STAFF REPORT BOARD MEETING DATE: August 23, 2016

DATE: July 31, 2016

TO: Board of County Commissioners

FROM: John Slaughter, County Manager,
328-2060, jslaughter@washoecounty.us

SUBJECT: Hearing, discussion, and possible action to determine whether there is just cause to remove Thomas G. Daly from the Washoe County Planning Commission pursuant to NRS 278.040 and Washoe County Development Code section 110.912.05(f) for Mr. Daly's actions involving Colina Rosa subdivision in April and May of 2016. The determination of just cause will be based on alleged violations of Washoe County Planning Commission Rule 1.04 and Due Process. If just cause is found, the County Commission may take possible action to remove Thomas G. Daly from the Washoe County Planning Commission.

SUMMARY

Hearing, discussion, and possible action to determine whether there is just cause to remove Thomas G. Daly from the Washoe County Planning Commission pursuant to NRS 278.040 and Washoe County Development Code section 110.912.05(f) for Mr. Daly's actions involving Colina Rosa subdivision in April and May of 2016.

PREVIOUS BOARD ACTION

None.

BACKGROUND

This hearing is scheduled pursuant to NRS 278.040, to determine whether there is just cause to remove Mr. Daly from his current position as a Washoe County Planning Commission member. This hearing is based on recent adjudicative action of the Washoe County Planning Commission concerning an application to build a residential subdivision near Mt. Rose Highway known as Colina Rosa. The item was heard at two different planning commission meetings, the first on April 5, 2016 when it was continued with no action on the application and the second on May 3, 2016 when it was approved despite Mr. Daly's vote against the project. Attached is the July 12, 2016 correspondence which

served as written notice of the hearing to Mr. Daly to include a summary and exhibits specific to the alleged violations. (Attachment A)

In sum, this removal hearing is based on Mr. Daly's refusal to recuse himself from participation in the conclusion of the hearing on the Colina Rosa application despite having authored an op-ed for a local newspaper in opposition to the project while the hearing was still pending. The attached correspondence reiterates the three reasons why Mr. Daly was advised to recuse: Planning Commission Rules, Due Process, and NRS chapter 281A. Importantly, the County Commission need not find violations in all three areas. A violation of any one is sufficient to warrant removal, provided the County Commission determines that the violation amounts to "just cause" for removal as provided in the statutes.

Furthermore, in order to narrow the scope of the issues involved in the hearing and to avoid any possible jurisdictional overlap or redundancy with the Nevada Ethics Commission, counsel for Mr. Daly has been informed that the chapter 281A (Nevada ethics law) issue will not be pursued or considered as a possible removal ground at the hearing before the Washoe County Commission. This leaves consideration of two possible grounds for a finding of just cause: Planning Commission Rule 1.04 and Due Process.

The Washoe County Development Code provides some guidance on what can constitute "just cause." It identifies inefficiency, neglect of duty, or malfeasance as bases for removal. WCC 110.912.05(f). This is not a case of inefficiency, so the relevant county code forms of "just cause" are neglect of duty or malfeasance.

Neglect of duty is straight-forward, meaning essentially a failure to do what is required by an officer or official in connection with their position. Any such failure must be material in some way and must be directly related to the performance of official duties in order to meet the "just cause" standard. See 63A Am. Jur. 2d § 250 (1984). Neglect of duty is what the law regards as an act of omission.

Malfeasance, on the other hand, has been defined in Nevada case law to mean an act of commission, that has a direct relation to and is connected with the performance of official duties and that is done in an official capacity. *Jones v. District Court*, 67 Nev. 404 (1950). It has been further defined to mean the doing of an act wholly wrongful and unlawful. *State v. McRoberts*, 192 N.E. 428 (Ind. 1934) (cited with approval in *Buckingham v. District Court*, 60 Nev. 129 (1940)).

While the county code's categories may be helpful in shaping the analysis, they do not override the removal statute. In other words, the three county code categories are not exclusive. Any other misconduct could suffice to warrant removal, so long as it rises to the level of "just cause."

"Just cause" has been defined simply by the Nevada Supreme Court to mean "cause sufficient in law." *Oliver v. Spitz*, 76 Nev. 5 (1960). Other instructive authorities have defined it as a reasonable ground for removal as distinguished from a frivolous or incompetent ground. *McNiff v. City of Waterbury*, 72 A. 572 (Conn. 1909). The cause for removal must relate to and affect qualifications appropriate to the office or employment or its administration, and must be restricted to something of a substantial nature directly affecting the rights and interests of the public; the evidence showing the existence of reasons for dismissal must be substantial. 63A Am. Jur. 2d. § 239 (1984).

FISCAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDATION

It is recommended that the Washoe County Board of County Commissioners hold a hearing and take possible action to determine whether there is just cause to remove Thomas G. Daly from the Washoe County Planning Commission pursuant to NRS 278.040 and Washoe County Development Code section 110.912.05(f) for Mr. Daly's actions involving Colina Rosa subdivision in April and May of 2016.

POSSIBLE MOTION

If the Board determines there is no just cause to remove Thomas G. Daly from the Washoe County Planning Commission pursuant to NRS 278.040 and Washoe County Development Code section 110.912.05(f) for Mr. Daly's actions involving Colina Rosa subdivision in April and May of 2016, there is no action needed.

If the Board determines there is just cause to remove Thomas G. Daly from the Washoe County Planning Commission a possible motion would be:

"Move to find that there is just cause to remove Thomas G. Daly from the Washoe County Planning Commission pursuant to NRS 278.040 and Washoe County Development Code section 110.912.05(f) for Mr. Daly's actions involving Colina Rosa subdivision in April and May of 2016, and move to remove Thomas G. Daly from the Washoe County Planning Commission."



WASHOE COUNTY

OFFICE OF THE COUNTY MANAGER

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July 12, 2016

Mr. Thomas Daly
Planning Commissioner
Washoe County Planning Commission
15040 Redmond Loop
Reno, Nevada 89511

Dear Planning Commissioner Daly:

Subject: NRS 241.033 and/or NRS 241.034 Notice & Notice of NRS 278.040(5) Removal Hearing

Background of General Topics to Be Considered at Your Removal Hearing

This letter will serve as notice that the Washoe County Board of Commissioners will hold a hearing on August 9, 2016, at their chambers at 1001 E. Ninth Street, Building A, Reno NV 89512, at 4:00 pm, to decide whether there is just cause pursuant to NRS 278.040 to remove you from your position as a Washoe County Planning Commission member. This hearing is based on a recent adjudicative action of the Washoe County Planning Commission concerning an application to build a residential subdivision near the Mount Rose Highway known as Colina Rosa. The item was heard at two different planning commission meetings, the first on April 5, 2016 when it was continued with no action on the application and the second on May 3, 2016 when it was approved despite your vote against the project.

At the April 5, 2016, hearing, the matter was presented. However, the planning commission took no action. Instead, on your motion, the planning commission voted to continue the matter to the May 3, 2016, meeting. A copy of the April 5 meeting agenda and minutes is attached hereto as Exhibit 1.

Between meetings, you then authored an op-ed letter to the Reno Gazette Journal voicing your opposition to the project. A copy of the letter is attached hereto as Exhibit 2. In the context of announcing your opposition to the project you emphasized your position as follows: "*Not on my watch and not with my vote.*" The letter was published by the newspaper on April 19, 2016.

Shortly thereafter, on April 27, 2016, you attended a meeting with Washoe County representatives to discuss your op-ed. At that meeting, you were admonished that your op-ed disqualified you from participating in the matter at the May 3 meeting because it exhibited bias against the project outside of the hearing and before the hearing was concluded. Subsequently, Washoe County received a letter dated May 3 from the Colina Rosa applicant's legal representative formally objecting to your further participation in hearing the Colina Rosa subdivision matter on the basis of prehearing bias demonstrated by your op-ed. A copy of their letter is attached hereto as Exhibit 3. When county planning staff advised you that the applicant was insisting on your recusal, you indicated that you would refuse to do so.

At the May 3 planning commission meeting, the continued Colina Rosa hearing proceeded, beginning with disclosures by planning commissioners. You disclosed that you had written the op-ed and that you had been advised, in essence, that there was a "hypothetical" or "speculative" possibility that your op-ed could be viewed as grounds for recusal, but that the harm to the interests of the citizens in the Mount Rose corridor that would result from your recusal outweighed any speculative or hypothetical legal concerns about your op-ed. Therefore, you indicated that you would not recuse yourself.

At that point, you were advised by legal counsel from the DA's Office in attendance at the meeting that your characterization of the advice you had received in the premises---i.e., that your op-ed raised only a speculative or hypothetical possibility that recusal would be required---was wrong. To ensure there was absolutely no lack of clarity on the advice being given to you about your need to recuse yourself, legal counsel then stated into the record at the meeting the unequivocal opinion that you were disqualified from legally participating, that you should recuse yourself, and that you should leave the meeting room for the duration of the hearing to avoid exerting any further influence in the matter. You were given three reasons, listed below. This list constitutes the general topics concerning you that may be considered by the Washoe County commission in deciding whether to remove you.

List of General Topics/Alleged Violations

One, the planning commission's own Rules, Policies & Procedures prohibit making statements outside of hearings that demonstrate prehearing bias. Specifically, Rule 1.04(a)(ii)(d) states that commissioners "must keep an open mind and not form or communicate any preferences or thoughts that may be perceived as prehearing bias." You were advised of these rules during your orientation last year as a new planning commission member. Your op-ed violated this rule.

Two, due process gives applicants in adjudicative matters before the planning commission a right to an impartial hearing. In fact, you were even advised of specific cases in Nevada supporting this proposition, such as Gilman v. Nevada State Bd. of Veterinary Medical Examiners, 120 Nev. 263 (2004), overruled on other grounds in Nassiri v. Chiropractic Physicians' Board, 327 P.3d 487 (2014) (impartiality is a requirement of administrative agencies in adjudicative matters; and Matter of Ross, 99 Nev. 1 (1983) (due process entitles parties to unbiased decision-makers in criminal and civil matters). Additionally, you had earlier been advised of a similar California case in which a planning commissioner's prehearing letter demonstrating bias resulted in the invalidation of that planning commission's decision. Nasha LLC v. City of Los Angeles, 22 Cal. Rptr.3d 772 (Cal. Ct. App. 2004). You were admonished in effect that further participation in the matter would render the county defenseless against the applicant's claims of a violation of the due process right to impartiality in the hearing of their application.

Three, NRS 281A.420 prohibits participation in a matter when a commissioner has made a commitment in a private capacity to the interests of others that would objectively prevent that commissioner from exercising independence of judgment. While NRS chapter 281A generally defines applicable private capacity commitments in terms of family or business relationships, it also includes a "catchall" provision prohibiting "any other ... substantially similar" commitments that would impair impartiality. NRS 281A.065(6). Your op-ed was not an action of the planning commission. Rather, it voiced a commitment

in your private capacity to take a particular action in your official capacity by denying the project that would be coming before the planning commission for a decision at the May 3 meeting. You were advised that, in addition to the planning commission's own rules and due process, NRS 281A.420 also required your recusal.

Upon being duly advised of the reasons for your disqualification and the requirement of your recusal, the chairman of the planning commission inquired as to your position. You indicated that your position had not changed and that you would nonetheless participate in the matter. At the conclusion of the hearing, the Colina Rosa project was approved. You voted against it. A copy of the agenda and minutes of the May 3 meeting is attached hereto as Exhibit 4.

Removal Hearing

NRS 278.040 provides in relevant part that a planning commissioner can be removed by the county commission for "just cause" after a public hearing. To carry out a removal, the determination of just cause must be made at a public hearing on the matter and must be supported by a majority vote of the county commission. At the August 9, 2016, County Commission meeting, the hearing on your potential removal will take place.

During the hearing, the county commission will consider whether your actions in connection with the Colina Rosa subdivision matter rise to the level of "just cause" necessary to support your removal in accordance with the statute. This will include, but will not be limited to, the county code-defined categories of "just cause": inefficiency, neglect of duty, or malfeasance of office. WCC 110.912.05(f).

Be advised that you may, but are not required to, defend yourself against potential removal. This includes appearing on your own behalf or retaining your own legal representation (at your expense) for the hearing, where you will be permitted to present witnesses, documents, and any other relevant evidence, as well as argument, in support of your position. At the conclusion of the hearing, the county commission may, without further notice, take administrative action against you if it determines that such administrative action is warranted after considering the alleged violations committed by you. If a majority of the county commission votes to remove you, your position as a Washoe County planning commissioner will terminate immediately.

Respectfully,


John Slaughter
Washoe County Manager

Enclosure

Cc: Washoe County Commission
Washoe County Clerk
Paul Lipparelli, Assistant District Attorney

EXHIBIT 1



WASHOE COUNTY PLANNING COMMISSION Notice of Meeting and Agenda

Planning Commission Members

James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Thomas Daly
Roger Edwards
Phillip Horan
Greg Prough
Carl R. Webb, Jr., AICP, Secretary

Tuesday, April 5, 2016
6:30 p.m.

Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

PUBLIC HEARING ITEMS SCHEDULED ON THIS AGENDA

(Complete descriptions are provided beginning on the second page.)

- **Special Use Permit Case Number SW16-001 (West Meadows Estates Powerline Relocation)**
- **Tentative Map Case Number TM16-001 (Colina Rosa)**
- **Regulatory Zone Amendment Case Number RZA15-009 (Black Rock Station Specific Plan)**

Items for Possible Action. All numbered or lettered items on this agenda are hereby designated for possible action as if the words "for possible action" were written next to each item (NRS 241.020), except for items marked with an asterisk (*). Those items marked with an asterisk (*) may be discussed but action will not be taken on them.

Possible Changes to Agenda Order and Timing. Discussion may be delayed on any item on this agenda, and items on this agenda may be taken out of order, combined with other items and discussed or voted on as a block, removed from the agenda, moved to the agenda of another later meeting, moved to or from the consent section. Items designated for a specified time will not be heard before that time, but may be delayed beyond the specified time.

Public Comment. During the "General Public Comment" items listed below, anyone may speak pertaining to any matter either on or off the agenda, to include items to be heard on consent. For the remainder of the agenda, public comment will only be heard during public hearing and planning items that are *not* marked with an asterisk (*). Any public comment for hearing and planning items will be heard before action is taken on the item and must be about the specific item being considered by the Commission. In order to speak during any public comment, each speaker must fill out a "Request to Speak" form and/or submit comments for the record to the Recording Secretary. Public comment and presentations for individual agenda items are limited as follows: fifteen minutes each for staff and applicant presentations, five minutes for a speaker representing a group, and three minutes for individual speakers unless extended by questions from the Commission or by action of the Chair. Comments are to be directed to the Commission as a whole and not to one individual.

Public Participation. At least one copy of items displayed and at least ten copies of any written or graphic material for the Commission's consideration should be provided to the Recording Secretary.

Forum Restrictions and Orderly Conduct of Business. The Planning Commission conducts the business of Washoe County and its citizens during its meetings. The Chair may order the removal of any person or group of persons whose statement or other conduct disrupts the orderly, efficient or safe conduct of the meeting to the extent that its orderly conduct is made impractical. Warnings against disruptive comments or behavior may or may not be given prior to removal. The viewpoint of a speaker will not be restricted, but reasonable restrictions may be imposed upon the time, place and manner of speech. Irrelevant and unduly

repetitious statements and personal attacks which antagonize or incite are examples of speech that may be reasonably limited.

Posting of Agenda; Location of Website. In accordance with NRS 241.020, this agenda has been posted at: <https://notice.nv.gov>, (i) Washoe County Administration Building (1001 E. 9th Street); (ii) Washoe County Courthouse (Court and Virginia Streets); (iii) Washoe County Library (301 South Center Street); and (iv) Sparks Justice Court (1675 East Prater Way, Suite 107).

How to Get Copies of Agenda and Support Material. Copies of this agenda and supporting materials may be obtained on the Planning and Development Division website (http://www.washoecounty.us/csd/planning_and_development/board_commission/planning_commission/index.php) or at the Planning and Development Division Office (contact Katy Stark, 1001 E. Ninth Street, Building A, Room A275, phone 775.328.3618, e-mail krstark@washoecounty.us). If you make a request, we can provide you with a link to a website, send you the material by email or prepare paper copies for you at no charge. Support material is available to the public at the same time it is distributed to Planning Commissioners. If material is distributed at a meeting, it is available within one business day after the meeting.

Special Accommodations. The facilities in which this meeting is being held are accessible to the disabled. Persons with disabilities who require special accommodations or assistance (e.g. sign language interpreters or assisted listening devices) at the meeting should notify the Washoe County Planning and Development Division, at 775.328.6100, two working days prior to the meeting.

Appeal Procedure. Most decisions rendered by the Planning Commission are appealable to the Board of County Commissioners. If you disagree with the decision of the Planning Commission and you want to appeal its action, call the Planning staff immediately at 775.328.6100. You will be informed of the appeal procedure, and application fee. Appeals must be in writing and must be delivered to the Planning and Development Division within 10 calendar days from the date that the decision being appealed is signed by the Planning Commission Chair and/or the Secretary to the Planning Commission, filed with the Secretary to the Planning Commission, and mailed to the original applicant in the proceeding being appealed, in accordance with Washoe County Code.

6:30 p.m.

1. ***Determination of Quorum**
2. ***Pledge of Allegiance**
3. ***Ethics Law Announcement**
4. ***Appeal Procedure**
5. ***General Public Comment**

Any person is invited to speak on any item on or off the agenda during this period. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on an agenda as an action item.

6. **Approval of Agenda**
7. **Approval of March 1, 2016 Draft Minutes**
8. **Planning Items**

A. Presentation by the Washoe County School District on overcrowding, repair needs, and growth within the District and how those factors affect schools and school funding. Questions and discussion by the Planning Commission will follow the

presentation. The School District staff making the presentation are Pete Etchart, Chief Operating Officer, and Kristen McNeill, Deputy Superintendent.

9. Public Hearings

A. Special Use Permit Case Number SW16-001 (West Meadows Estates Powerline Relocation) – Hearing, discussion, and possible action to approve a special use permit to allow the construction and operation of a power pole to facilitate the relocation of a 120 kilovolt overhead powerline (Major Services and Utilities, Utility Services Use Type). This is a Project of Regional Significance according to NRS 278.026(6)(b) and will not be effective until and unless it is approved by Truckee Meadows Regional Planning.

- Applicant: West Meadows Investments LLC, Attn.: Rob Fitzgerald, PO Box 8070, Reno, NV 89507
- Property Owner: Owners of Glenn Meadows Village, Attn.: Ken Whan, 10509 Professional Circle, suite 200, Reno, NV, 89521
- Location: Adjacent to, and south of, US Highway 40 in the Verdi area, approximately 600 feet east of its intersection with Summerset Drive.
- Assessor's Parcel Number: 038-610-00
- Parcel Size: 11.81 acres
- Master Plan Category: Suburban Residential
- Regulatory Zone: Public and Semi Public Facilities
- Area Plan: Verdi
- Development Code: Article 810, Special Use Permits
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 9, T19N, R18E, MDM, Washoe County, NV
- Prepared by: Roger Pelham, MPA, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3622
- E-Mail: rpelham@washoecounty.us

B. Tentative Map Case Number TM16-001 (Colina Rosa) – Hearing, discussion, and possible action to approve a 94 lot common open space subdivision on two parcels totaling 20.1 acres.

- Applicant: Towne Development of Sacramento, Inc.
- Property Owner: Bernard Trust
- Location: 3800 Mount Rose Highway and 5185 Edmonton Dr.
- Assessor's Parcel Numbers: 049-402-02; 049-402-07
- Parcel Size: 20.1
- Master Plan Category: Commercial
- Regulatory Zone: Neighborhood Commercial (NC)
- Area Plan: Forest Area Plan
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Article 608 (Tentative Subdivision Maps) and Article 408 (Common Open Space Development)
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 30, T18N, R20E, MDM,

- Prepared by: Washoe County, NV
Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

C. Regulatory Zone Amendment Case Number RZA15-009 (Black Rock Station Specific Plan) (Continued from March 1, 2016) – Hearing, discussion, and possible action to recommend modification and tentative adoption, or tentative adoption without modification, by resolution a Regulatory Zone Amendment and the accompanying Development Standards Handbook; and, to require that an application for final approval be filed within 12 months of final adoption; and to authorize the Chair to sign the resolution. The regulatory zone amendment will change the current regulatory zone from General Rural to Specific Plan to establish a mix of Residential and Industrial uses for the general purpose of creating a permanent base of operations for the annual Burning Man event held in neighboring Pershing County. The Development Standards Handbook establishes all necessary development standards and provides maps of the site design including the location of proposed uses. The adoption of the proposed regulatory zone and the Development Standards Handbook will supersede and include all previous Special Use Permits granted to the parcel including SB03-24 (Auto Repair), SW03-25 (Light Industrial Wood/Metal Fabrication), SW04-004 (Storage/Distribution), SW04-007 (Inoperable Vehicle Storage), SW04-008 Communication Facility/Commercial Antenna, and SB04-009 (Operable Vehicle Storage).

- Applicant: Black Rock City, LLC
- Property Owner: Black Rock City, LLC
- Location: 88 Jackson Lane, Gerlach, NV 89412
- Assessor's Parcel Number: 066-030-23
- Parcel Size: 200 Acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: High Desert
- Citizen Advisory Board: Presently Inactive
- Development Code: Article 442, Specific Plan Standards And Procedures
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 30, T35N, R22E, MDM,
Washoe County, NV
- Prepared by: Eric Young, Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3613
- E-Mail: eyoung@washoecounty.us

10. Chair and Commission Items

- *A. Future agenda items
- *B. Requests for information from staff

11. Director's and Legal Counsel's Items

- *A. Report on previous Planning Commission Items

***B** Legal information and updates

12. *General Public Comment

Any person is invited to speak on any item on or off the agenda during this period. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on an agenda as an action item.

13. Adjournment



WASHOE COUNTY PLANNING COMMISSION Meeting Minutes

Planning Commission Members

James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Thomas Daly
Roger Edwards
Phillip Horan
Greg Prough
Carl R. Webb, Jr., AICP, Secretary

Tuesday, April 5, 2016
6:30 p.m.

Washoe County Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Planning Commission met in a scheduled session on Tuesday, April 5, 2016, in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Barnes called the meeting to order at 6:30 p.m. The following Commissioners and staff were present:

Commissioners present: James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Thomas Daly
Roger Edwards
Phillip Horan
Greg Prough

Staff present: Carl R. Webb, Jr., AICP, Secretary, Planning and Development
William H. Whitney, Director, Planning and Development
Roger Pelham, MPA, Senior Planner, Planning and Development
Trevor Lloyd, Senior Planner, Planning and Development
Eric Young, Planner, Planning and Development
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Kathy Emerson, Recording Secretary, Planning and Development
Donna Fagan, Office Assistant III, Planning and Development

2. *Pledge of Allegiance

Commissioner Daly led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Edwards provided the ethics procedure for disclosures.

4. *Appeal Procedure

Secretary Webb recited the appeal procedure for items heard before the Planning Commission.

Mr. Webb mentioned that all three Public Hearing Items, 9A, 9B, and 9C, are appealable.

5. *Public Comment

Chair Barnes opened the Public Comment period. There was no public comment.

6. Approval of Agenda

In accordance with the Open Meeting Law, Vice Chair Chvilicek moved to approve the agenda for the April 5, 2016 meeting as written. Commissioner Edwards seconded the motion, which passed unanimously with a vote of seven for, none against.

7. Approval of March 1, 2016 Draft Minutes

Commissioner Prough moved to approve the minutes for the March 1, 2016, Planning Commission meeting as written. Commissioner Chesney seconded the motion, which passed unanimously with a vote of seven for, none against.

8. Planning Items

A. Presentation by the Washoe County School District on overcrowding, repair needs, and growth within the District and how those factors affect schools and school funding. Questions and discussion by the Planning Commission will follow the presentation. The School District staff making the presentation are Pete Etchart, Chief Operating Officer, and Kristen McNeill, Deputy Superintendent.

Mr. Webb provided a brief description of the item. He clarified that the presentation was not about the bond which may appear on the November ballot. The presentation was limited to the topics of overcrowding, repair needs, and growth. The School District had previously made a presentation to the Board of County Commissioners on the bond provisions as enabled by a special State statute. Topics, comments, and discussion at the Planning Commission meeting should be limited to the items on the agenda.

Kristen McNeill and Pete Etchart gave their presentation on overcrowding, repair needs, and growth in the Washoe County School District.

Chair Barnes opened public comment. There was no public comment.

Chair Barnes called for questions from the Commissioners.

Commissioner Horan stated that he and the Commissioners would like copies of the School District's presentation. He added that he is a substitute teacher in the school system. He goes to some of the good schools, as far as facilities are concerned, like Depoali, Damonte Ranch, and Galena. He also goes to Booth, Loder, and Smithridge. There is a real challenge in the School District. He believes that we are not giving equal education to all of our students. Those who go to some of the newer schools are much better off than those who go to some of the older schools that are 30 or 40 years old, where you are teaching in the hallways. He does not know the answer. He knows this is not an appeal one way or the other on the bonding fund, but it is a real challenge as to how we will be able to provide a good education for all of our students.

Vice Chair Chvilicek referred to the tentative map item that would be heard later in the meeting. She said that one of the comments from the Washoe County School District is: "A disclosure shall be made by the developer to each homebuyer on their closing documents that K-12 students in this subdivision may be assigned to the nearest Washoe County School District school(s) with available capacity in the event that the zoned schools cannot accommodate

additional students." She asked why we eliminated multi-track, year-round for our elementary schools and went to a balanced calendar and are now considering going back to multi-track.

Ms. McNeill said that when the schools were taken off of the multi-track, enrollment growth had been stagnant for a few years. The need to have a multi-track school is only implemented on overcrowding situations. A school is not put on multi-track unless there is an overcrowding situation. The enrollment growth was dropping within the Washoe County School District. The balanced calendar is a separate issue as far as trying to come up with a calendar that allows students to take courses or make up credits or have intercession activities, extracurricular activities, and additional learning opportunities throughout the school year. That is the balanced calendar. It has nothing to do with an overcrowding situation.

Vice Chair Chvilicek expressed her understanding, but said that when multi-track was ended and the balanced calendar was initiated, there were only one or two schools on a multi-track. All other schools were removed from a multi-track. She believed that we have only been in the balanced calendar for two and a half or three years.

Mr. Etchart said that he has been with the School District for three years and knows it has been longer than that, because we have been on balanced calendar since he has been here. He said it has been about four years. He said there is also a cost to being on the multi-track, year-round calendar. They estimated about \$250,000 per school to be on a multi-track calendar, which is basically for operational costs, buses and bus transportation, nutrition services, and other costs. So when they had the declining enrollment growth, the decision was made to try to put everyone back. There is also an inconvenience to a lot of parents who have students on different calendars. So the decision was made by the district to go back to a balanced calendar until needed. There have been efforts like AB46 to try to find additional funding so they would not have to go back to multi-track, and those have failed. So they are back in the situation where they were before the Great Recession where growth is here and they are being faced with alternative calendars.

Vice Chair Chvilicek asked about the 7.8 million dollars over nine years. She mentioned that they emphasized the repair and renovate. Towards the latter part of the presentation, they spoke about building schools. She said that it seemed a little skewed if elementary schools are already over capacity and middle schools are approaching capacity. She said that if the emphasis is on building schools, then maybe we should talk about building schools and then adding the other components of renovating the ones that we do have to renovate.

Mr. Etchart stated that he appreciated the comments and will always look at improvements for the presentation. He expressed that elementary, middle, and high school capacities are very different. Elementary schools can be run at 120 percent. Brown Elementary School is currently in the 140 percent range. You can run it. It is not right. A high school runs optimally at 85 percent. When you get past 85 percent, you are really overcrowded. Right now Damonte Ranch High School, which is busting at the seams with portables and is way past capacity, is at 100 percent capacity. They have set the conversion threshold to go from a regular calendar to a double-session calendar at 120 percent. He does not know if we can make 120 percent. He thinks that even at 100 percent, we are running out of capacity for our high schools. He believes it is ambitious for him to say that they have five years before they may have to address a double-session calendar. It is a complicated subject, and sometimes simplification does not help.

Vice Chair Chvilicek asked about double sessions. She asked about the School District accessing research to demonstrate, particularly with high school students and probably as low as middle school students, that starting school hours at that level is not conducive to learning.

She asked about other options for the School District to address those learning curves and learning in the brain.

Ms. McNeill answered that they meet on a weekly basis to discuss these types of options and different scenarios that can happen. There are different things that can be done during the day. They have looked at putting the freshmen and sophomores first and the juniors and seniors at night. But they are talking about disruptions of families. A parent may have a junior and a senior and may end up on two separate sessions. She agreed that there is quite a bit of research out there as far as brain activity. She is the parent of a 13-year-old child. Waking her up at 3:00 in the morning to get to middle school is not going to go over very well for very long. They absolutely understand.

Mr. Etchart added that in the last legislative session there was a bill heard that said you would not be able to start school until after 9:00 a.m. It did not go forward, but it got some hearings. So now they are talking about starting school at 6:55. He could not agree more that the learning environment is going to be challenged.

Commissioner Edwards said that a couple of years ago, 2012, a 1.5 billion dollar tax bond ran through. By their own accounts, only 670 million dollars of that went to the schools. The rest went to retirement funds and teacher pay and so forth. He said that they cannot keep coming to the public with doomsday scenarios on blown-up boilers and cracked ceilings and then not spend the money that is given to them on those things. His suggestion was to look at a different kind of retirement plan if they cannot afford the current one. In facing a declining student enrollment, he feels that all of these things should have been paid for already. He would not mind supporting a 781 million dollar additional if he thought it was all going to the schools that keep coming before them in the presentations. He said that the funding is not going there. He can support the additional funding, but the School District is only showing them the damage to the schools and not how much is going to underfund retirement plans.

Mr. Etchart said that by state law, by NRS statutes, any of the money that is brought forward with this ballot initiative, through AB46, SB154, and any of the initiatives that have been brought back in the past and any going in the future by law can only be used to build, renovate, and repair schools and for those support facilities like nutrition services and transportation. It cannot be used for salaries, benefits, or for anything besides building, repairing, and renovating schools. The funding that either came through the legislature or in the past is categorical funding. Whether that money is going to be spent on gifted and talented programs, English language learners, autism classes, class-size reductions, or any of the other programs/things that came through, it can only be spent on those needs. Absolutely none of the money that came through the last legislative session or before can be used to build schools. We are one of twelve states in the country that receives no state funding for schools. We receive no federal money for schools. This is a Washoe County issue, and it has been a Washoe County issue for well over a decade. It has never been solved by Washoe County. When you look at our taxes and compare them with other states and you look at the education responses that we receive, he thinks there is a correlation. He truly feels there is a nexus between those two. He stressed that this money can only be used to repair, renovate, and build schools.

Commissioner Daly said it was clear that new money can only be spent on the schools. With respect to existing funds that are a part of the School District's budget for capital improvements, he asked if there is any limitation on the School Board to reallocate those moneys to other purposes.

Mr. Etchart said that general fund money can be used to build schools. He said that they would love to come back and give a complete presentation on where every dime is spent. They had a

budget meeting the previous night, a town hall meeting at Wooster High School, to show where all of the money is spent on teacher salaries. The administrative costs for the School District are one of the absolute lowest in the nation. General fund money could be used to build schools, but at the expense of teachers and aids and transportation and all of the other things that need to go into the School District. When they look at funding for schools, they are restricted on what money can be used for. There is no excess money coming out of the general fund. Even if you laid off every administrator at the admin building, it would not even build one school. They have extremely low administrative costs. The money they are talking about is just for repairing and building schools. They have never addressed that as to Washoe County. He said that they have said no many times and are now facing this situation.

Commissioner Daly asked what percentage of the current budget, excluding this potential new money, is spent on capital improvements.

Mr. Etchart said that he could not give a percentage as far as the general fund. He said none, as far as general fund money.

Commissioner Daly asked, of all of their income, what they spend fixing and building schools.

Mr. Etchart said that it currently comes from property tax, and they receive a ballpark amount of 45 million dollars. Going forward, it will be an average of 35 million dollars a year according to their financial analyst.

Commissioner Daly asked what percentage of the budge that is.

Ms. McNeill said that they have a 661 million dollar budget.

Commissioner Daly said five percent, give or take.

Mr. Etchart said that it is a separate pot, because this money can only be used for this need, and the general fund money is used for salaries.

Commissioner Daly said that there is nothing to say that the School Board could not take that five percent, if they get this new pot of money, and say they are only going to spend three percent. They could give the other two percent for school buses or teacher salaries or retirement funding or whatever. He said the point is that the citizens want to know that if they get new money, the existing pot going to capital improvements is not going to be reduced. He spoke of a net gain. He said that if they tell him there is not guarantee, then they are not going to get his vote.

Mr. Etchart said it is guaranteed. There is no legal way they can use any of this money, including the existing bond money or the new allocation of funds, if they receive funding, on anything but building schools. That is all it can be used for. They have all of the numbers in their data gallery. The Board of Trustees authorized what will be called the Capital Funding Protection Committee, which is another added step. Any of these building projects, whether renovating, repairing, or building new schools, will first go to this community group. It is made up of six elected officials: two from Washoe County, two from Reno, two from Sparks, and five community members from diverse backgrounds. They will make a recommendation to the Board of how to use this money. Staff will bring the projects to the committee, and the committee will make a recommendation to the Board of Trustees. If the Board of Trustees does not agree with that recommendation, they have to say so at a public meeting and then it has to go back to the Capital Funding Protection Committee for review. Then they have the authority to say "Yes we agree" or "No" and send it back to the Board. After they come to agreement,

then it goes to the Oversight Panel for School Facilities, which has to check off on it, along with the Debt Management Commission. Mr. Etchart said that no other agency, whether it is Reno, Sparks, Washoe County, NDOT, or RTC, goes through that many steps for protection and oversight of funding. The Washoe County School District has committed to do this. They have committed to transparency and accountability to show where all of the money is going. He knows the perception in the community that money is not going to the proper uses, but he challenged that and said that any money they received in the past or receive in the future on the capital side goes directly into building schools and repairing schools.

Commissioner Prough asked if the Capital Protection Committee is volunteers or if they are compensated.

Mr. Etchart said that they are volunteers. He said there are two that the Washoe County Commission, Reno, and Sparks will appoint.

Commissioner Prough asked if there was any money coming out of the general fund for salary or anything like that.

Mr. Etchart confirmed that they are volunteers. He said that it is set up Nevada Revised Statute actually selects who is on the Oversight Panel for School Facilities. This will be similar. The five community members will include someone with an expertise in construction, someone in finance, someone in gaming. It is spelled out under Nevada Revised Statutes.

Ms. McNeill said they had a copy of the budget presentation if the Commissioners were interested. It was disheartening at Wooster High School, because one community member showed up. They would be more than happy to send the budget presentation to the Commissioners, as well as the data gallery.

The Commissioners agreed.

Commissioner Edwards said that by their own numbers, 81 million for an entire new high school and that last budget of 600 and something that was directed for construction. He asked why they do not build seven new high schools and close the other ones, as opposed to putting 600 and some million dollars into repairs and holding the status quo when they might have increasing numbers. He said item 2 is that they have a lot of property that they are not using that the School District holds. He assumed that it is for future growth. He said that if they are dealing with a crisis today, then maybe they need to think about selling some of the bare property and turning that into new schools, repairs, or whatever. The School District does not need to hold bare land just for a bank.

Mr. Etchart addressed the bare land. The only land they hold onto is property on which they hope to build schools. The only exception he knew of, off the top of his head, was the property at Incline Elementary School that was the old property. They are holding onto it, because their property analyst has told them that the price of raw land is going up, and it would not be in their best interest to sell it at this time. That is only a million-dollar piece of property. Other than that, they hope to build schools on the properties they own. They are restricted by NRS. When a development is approved, and they look at that development and say that they need to build a school, the developer has to set aside property for them. But the Washoe County School District has to pay fair market value for that property. They do not receive property for free unless a developer wishes to donate it. This has happened, but most times they are paying for that property. If they do not use that property within ten years, then they have to give that property back to the developer. They have very stringent rules on land. They do not hold onto land just for investment purposes, with the exception of Incline Elementary School. The 680

million dollars, whatever the number is that Ms. McNeill gave, that is general fund. That is the money that pays salaries, aids, and all of the other things for the School District. That is the money they use to educate children. If they took that to build schools, then they would have to lay off teachers. The only money they have to build schools is the property tax money. They have had zero for the past several years through the Great Recession. Since Mr. Etchart came three years ago, this is the first year that they have had their first bond allocation of 35 million dollars. They had no money to build, renovate, or repair. They were only using the excess bond money they had from previous sales, which expires this year.

Commissioner Horan lives in Incline Village and was happy to hear a definitive statement from the school officials that they are holding that land for investment, because that is not what they hear from time to time. It is a building that certainly needs to be remediated. This was the first time he had heard a definitive statement that their analysts are recommending holding it for investment because the price is going up. He asked if he could take that statement to the bank, if it was an affirmative.

Mr. Etchart said that they have had a lot of a people come to them and say that they would like to use it, including public uses. Incline Village and IVGID have come to them with public uses. Developers have asked to purchase the property. When they dispose of public property, it is a very complex process. They are holding onto it right now. They did an appraisal on the property, and it came out much less than they hoped. They were told that if they waited, developed land has gone up 30 to 40 percent over the last several years. Raw land is lagging behind, but they anticipate that it will catch up. He cannot say what is going to happen with the property at Incline Village, if the Board is going to want to give it to a public use like IVGID or if it is going to be sold for the cash value. Right now they are holding onto it until they see the best use.

Chair Barnes called for any additional Commission questions. There were none.

Chair Barnes directed the Commission to Public Hearing Item 9A.

9. Public Hearings

A. Special Use Permit Case Number SW16-001 (West Meadows Estates Powerline Relocation) – Hearing, discussion, and possible action to approve a special use permit to allow the construction and operation of a power pole to facilitate the relocation of a 120 kilovolt overhead powerline (Major Services and Utilities, Utility Services Use Type). This is a Project of Regional Significance according to NRS 278.026(6)(b) and will not be effective until and unless it is approved by Truckee Meadows Regional Planning.

- Applicant: West Meadows Investments LLC, Attn.: Rob Fitzgerald, P.O. Box 8070, Reno, NV 89507
- Property Owner: Owners of Glenn Meadows Village, Attn.: Ken Whan, 10509 Professional Circle, suite 200, Reno, NV, 89521
- Location: Adjacent to, and south of, US Highway 40 in the Verdi area, approximately 600 feet east of its intersection with Summerset Drive.
- Assessor's Parcel Number: 038-610-00
- Parcel Size: 11.81 acres
- Master Plan Category: Suburban Residential
- Regulatory Zone: Public and Semi Public Facilities
- Area Plan: Verdi

- Development Code: Article 810, Special Use Permits
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 9, T19N, R18E, MDM,
Washoe County, NV
- Prepared by: Roger Pelham, MPA, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3622
- E-Mail: rpelham@washoecounty.us

Commissioner Daly mentioned a couple of emails back and forth with staff over the past couple of weeks regarding the authority of the Planning Commission to impose conditions on Tentative Map amendments. He asked staff to indicate to the Commission what abilities or inabilities they have to do so.

DDA Edwards asked for the specific item.

Commissioner Daly stated that it would come up on every item. He intended to make motions to impose conditions. He wanted to make sure that he understood the staff's answer to his questions.

DDA Edwards said that, legally, Commissioner Daly should make his motion. If there are conditions that are not permissible, then DDA Edwards will flag those. He stated that this particular item is a Special Use Permit, and they are empowered to impose conditions on a Special Use Permit.

Mr. Webb provided a description of the item.

Chair Barnes asked for ethics or ex parte disclosures. There were no disclosures.

Chair Barnes opened the public hearing.

Roger Pelham presented his staff report, dated March 21, 2016.

Chair Barnes called for an applicant presentation.

John Krmpotic, with KLS Planning, spoke on behalf of applicant West Meadows Investments. He showed the site of a 324-lot Tentative Map that was ultimately approved and involved a PUD through the City of Reno a couple of years ago. They are relocating a utility corridor. They would like to relocate a single pole, with a County parcel across the street at Glen Meadows. The idea is to realign the corridor. A new pole location is the subject of this Special Use Permit. The staff condition that requires a landscape plan and typical landscape as though it is a regular civil project is a little bit cumbersome to manage. They are in open space with a mound of dirt and a drainage way next to it. The issue is where to put 20 percent landscape. The other is the line of sight, because they are dealing with one property owner. If you imagine standing in the property owner's backyard and looking up, then you would look right over the landscaping that will be around the pole. He asked for a condition amendment with staff and was told that there was enough flexibility. They met with the owner of the house on the corner. There is a common dirt area between the owner's fence and the HOA fence, which is where they agreed to put five trees, which will have much more impact in screening the pole for their purpose. They would need permission from the Home Owners' Association, in addition to putting in an irrigation meter. They would like to put the trees in an open space area and serve more purpose. Also,

this is toward the end phasing of the project, Phase III. The owner will start on the east where the infrastructure is. The owner asked if the Commission would support four years on this Special Use Permit. They would like a little more time, because they do not know the timing of the market in delivering houses to the area. This housing phase and relocation of the corridor are way down the road.

Chair Barnes called for public comment. There was none.

Chair Barnes called for Commission questions.

Vice Chair Chvilicek asked if it was a 120 kilovolt pole.

Mr. Pelham replied that the powerline is 120. The pole supports it.

Vice Chair Chvilicek asked about the height of the pole to hold that kind of voltage. She stated that it seems like a significantly larger pole. She asked if it was a big metal pole.

Mr. Pelham said that the height is more or less the same. The current poles are sort of an "H" shape made of wood. This would be a single steel pole. The height will be about the same, and it will be in the same corridor. It is one steel, rather than a couple of wood.

Vice Chair Chvilicek asked the applicant if the project is four or five years down the line, then what is the possibility of undergrounding power?

Mr. Krmpotic said there is an economic factor, because it is very expensive to underground. They looked into it with NV Energy and were told that it does not qualify on their technical basis.

Chair Barnes closed the public hearing and brought the item back to the Commission for discussion.

Commissioner Chesney spoke to put Vice Chair Chvilicek at ease. He stated that the "H" structure currently in place is ugly and very old technology. The single pole may not be attractive, but it is a little better than the "H" structure.

Commissioner Horan mentioned the change in a condition.

Mr. Webb suggested that the applicant come forward. Mr. Webb heard a request on Condition 1b to extend the time from two years to four years.

Mr. Krmpotic agreed with Mr. Webb's statement regarding Condition 1b. He added that there are three landscape conditions. One is the plan. One is the maintenance. He forgot the third. From discussions with staff, he believes that the way they are written provides enough flexibility for them to work with the property owner and with staff and leave it as such. So it was just 1b.

Chair Barnes called for a motion.

Commissioner Horan moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, Washoe County Planning Commission approve with conditions Special Use Permit Case Number SW16-001, with the adjustment in Condition 1b, changing the timeframe from two to four years, for West Meadows Investments LLC, having made all four findings in accordance with Washoe County Development Code Section 110.810.30, subject to approval of the Project of Regional

Significance by the Truckee Meadows Regional Planning Commission, having made all four findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Verdi Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for a power pole to allow relocation of a power line, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;

Commissioner Prough seconded the motion.

Chair Barnes called for discussion on the motion. There was no discussion.

Chair Barnes called for a vote. The motion passed unanimously, with a vote of seven for, none against.

B. Tentative Map Case Number TM16-001 (Colina Rosa) – Hearing, discussion, and possible action to approve a 94 lot common open space subdivision on two parcels totaling 20.1 acres.

- o Applicant: Towne Development of Sacramento, Inc.
- o Property Owner: Bernard Trust
- o Location: 3800 Mount Rose Highway and 5185 Edmonton Dr.
- o Assessor's Parcel Numbers: 049-402-02; 049-402-07
- o Parcel Size: 20.1
- o Master Plan Category: Commercial
- o Regulatory Zone: Neighborhood Commercial (NC)
- o Area Plan: Forest Area Plan
- o Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- o Development Code: Article 608 (Tentative Subdivision Maps) and Article 408 (Common Open Space Development)
- o Commission District: 2 – Commissioner Lucey
- o Section/Township/Range: Section 30, T18N, R20E, MDM, Washoe County, NV
- o Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- o Phone: 775.328.3620
- o E-Mail: tlloyd@washoecounty.us

Mr. Webb provided a description of the item..

Chair Barnes called for ethics or ex-parte disclosures. Commissioner Daly attended a meeting with the developer and the community where this was discussed about two weeks ago. He stayed for part of the meeting. He also had a phone call from the developer, but he had not yet seen the staff report and supporting documents, so they did not have much of a discussion.

Chair Barnes opened the public hearing.

Trevor Lloyd presented his staff report, dated March 22, 2016.

Chair Barnes asked for an applicant presentation.

John Krmpotic, with KLS Planning, spoke on behalf of the applicant Towne Homes of Sacramento. Jeremy Goulart is one of their big wheels and was in the audience, along with Paul Solaegul, traffic engineer, and Jason Gilles, a senior civil engineer with TEC Engineering. In terms of neighborhood politics and neighborhood PR, they did have the CAB meeting. A couple of things that came of that were a few things that were not addressed at the first meeting. So they came back and had the meeting at the LDS church, specific with the Galena Terrace HOA, which is Rolling Hills, which is really 90 percent of the people that had any concern at all. He said that they are in agreement with the staff report and all of the conditions as proposed. In terms of the CAB and the HOA, he thinks that they came to pretty much full agreement on those issues. He wanted to speak about the access. The eastbound going down the highway, that right-turn movement eastbound to right onto Edmonton was a concern. There was a lot of discussion at both meetings about that particularly. Mr. Pullen from NDOT wrote a second letter, which is in the staff report, suggesting that they put in a deceleration lane right there. So you get out of the through-travel lane, turn right onto Edmonton. They have accepted that condition. The other is the northbound left turn. Coming north on Edmonton, they are looking at either a pork chop there to prohibit that northbound left turn and possibly restricting only right turn there. Those were the big issues with traffic. There is this one that is overloaded in the morning at Butch Cassidy and Edmonton, because of the kids coming down the highway going to Galena High School. They have committed to working with the principal of Galena High School so they can direct them down. This is more about trying to manage teenagers and PR on this thing a little bit. Going further down the road to De Spain is that street a little bit further to the east. Mr. Krmpotic went through the remainder of his PowerPoint. They are trying to get a little more distribution of the high school traffic. Traffic was number one of the big issues. The design and density was a concern. There are five to the acre that are already allowed in this zoning on the property; they are at 4.6. They had a couple of issues with landscaping and screening and berming. One was along the highway. There is a section for screening adjacent to the highway. There is also an area on the south side of Butch Cassidy related to those people who live on the other side of it. They agreed to fencing at that location and adding some street trees and a little bit of landscape strip. They only have five feet to work with when you put in Butch Cassidy and that five foot landscape strip on the south side and the fencing in addition for all of those houses that back up to what will be the Butch Cassidy extension. On the project side, they have a little drainage swale, and they have some sidewalk. On the highway, you have the native plants. That is the setback that is required in the Forest Area Plan. They have decided to berm up with three to four feet in that berm area and add in evergreen trees for screening. This is very important to the Mount Rose Highway Scenic Corridor, and that evergreen content and texture that they are looking for and then screening of the houses. They did add two conditions, agreed to with staff. One would be only single-story houses in the row next to the highway. They agreed to another condition at Edmonton. There will be a three-to-one landscape slope with trees, both evergreen and deciduous, boulders, that kind of top-rock treatment. They agreed to stagger the houses that will be seen on that first row next to Edmonton so that they get a little bit of variation, given the density. There is a product in a sample project over the hill in Roseville. It is open-view fencing along slopes; half is open

view, half sold. That is a type of character fencing that they have proposed for Mount Rose Highway with wooden pilasters. It meets the corridor standard and then split rail along Butch Cassidy.

Chair Barnes called for public comment.

Richard Keefhaven is a property owner off Mount Rose Highway on Caswell. He is concerned about the high density of the development, although he doesn't think they can stop it. His question is why they need to reduce from five to 4.6 properties per acre. He wanted to know if the zoning needs to be adjusted to increase the density. He is concerned that almost 100 homes is 250 cars. He is thinking more like 100 students. He is concerned about the scenic highway and about the infrastructure. The parking lot at the Raley's shopping center is now at probably 90 percent capacity more often than not. Galena High School, as they heard earlier, the schools are busting at the seams. He does not think that they need to increase the density. He thinks they should decrease it. He is also concerned about Mount Rose Highway. He has lived at Mount Rose Highway for ten years and seen significant growth. He believes it is only going to get worse. He lives up the street on Caswell next to Montreux, and they have acre lots up that way. It does not seem to him that high density development fits on Mount Rose Highway. High density is over in Damonte Ranch, and you can see what is happening to the high schools over there already because of high density. He is pretty much opposed to it, and that is the position of most of the people with whom he talks in the area.

Gary Anghinetti said that the developer has addressed a lot of the concerns regarding traffic. His concern is for the proximity of a source of ignition to wildfire. He said that if you look at any of the PowerPoint presentations and the Planning Commission staff report on the second page, they show the area where the developer is going to develop, and they show the homes in Rolling Hills. The back of all of these homes on Vancouver Drive, where he lives, there is a lot of fuel for wildfire, a lot of bitterbrush, a lot of sage. In the past, under the Sierra Fire Protection District, they would come in occasionally and eradicate some of the fuels for fire. Now it is under Truckee Meadows Fire Protection. They have not seen any eradication in that area for probably five years. He mentioned the fire that backed up to Galena High School. For the residents of Rolling Hill, fire is a huge concern. His position is that a lot of these homes would be backing up to open space, as well, on the cul-de-sacs. There is more of a chance for ignition from barbecues. He addressed the issue at the Citizens Advisory Board meeting, and he was told there would be a fifteen-foot buffer. He thinks anybody who lives on Mount Rose Highway corridor knows of the winds. Any winds from a barbecue or anything could carry an ember 100 feet. He is wondering if there is some way to get the builder to speak with the County or the Fire District and have some type of eradication or fire protection put in there. He believes this is putting them at risk. If there is a fire, he goes on record as saying that this may have been a situation that could have been avoided.

Charles Cavanaugh said that he is in support of the project. He thinks that additional housing, done correctly, is a need that Reno and Washoe County will have going forward, especially with what we are seeing in the expansion of all the new jobs that are coming to our area. His most important concern is the amount of houses that they are trying to put in the area. They want to reduce the setbacks from 15 feet to five feet. He feels that when you start doing that, it changes how the development looks from the road. People driving up and down Mount Rose Highway, especially because it is on a graded area, are going to see a lot of houses stacked. He doesn't know if it fits into what he would consider a County feel. It is more of what he would consider a city feel. His question is whether it is necessary to have that high of density in this particular area. He would like to see more of a flow. If you look at Monte Rosa, Rolling Hills, or Galena Country Estates, which surround this projected area, they have medium density, which is a minimum of eight feet or 16 feet between the houses. It has more of an open and blended feel.

That is what he would like to see in this particular area. He feels like the traffic concerns have been dealt with. He appreciates the builder for taking their safety into consideration and working with NDOT and the traffic studies to make sure that they are getting it right. The more houses you put on a lot, the greater the water consumption. If they go from 94 houses to 74 houses or to 84 houses, they are going to consume more water. Whatever the outcome, he would highly recommend concerns or stipulations in the CCRs on how that water is utilized in that particular development. He mentioned street parking. If you go to Damonite Ranch, where they have the short setbacks of 15 feet in the front yard, there is no extra access for anybody to park cars, other than on the street or in the driveway. He understands that they do meet the two-car requirement for the street, but in today's world, there are usually more than two cars in everyone's home. This creates some access issues or parking issues on the street, possibly. Regarding the project layout, if you look at some of the other communities in the area, it is more rolling or has curves or a little bit more of a design. To him this looks like sticks. When you stack sticks and house on top of each other especially tight, it stands out. It does not have that rolling feel. He is asking that if the Commission decides to approve this project that they do so with stipulations or something that might address the setbacks or reconsidering that, at least the medium density suburban of eight feet versus the five feet proposed.

Commissioner Edwards asked Chair Barnes if the folks could provide their names and addresses so the Commission would know where they are impacted.

Stephen Avillo lives at 3742 Vancouver Drive. His backyard abuts the new development. He echoed what the previous speakers said about the density. As a neighboring landowner, he would like to see it not quite as dense. He said that in previous meetings, they had talked about a fence along the extension of Butch Cassidy, between their properties and the new development. If the development does go forward, then Mr. Avillo would like to request that the fence be there. He thinks they would all like gates to have access to the road. Some of his neighbors want that for RV access. He knows a few kids, and balls get thrown over the fence. Instead of walking all the way around to get the ball, it is nice to have a gate. He also requested that the fence be built first so that if they are constructing for four years, it will be less of an eyesore for all of them while it is a construction site. His other request was for the landscaping along Butch Cassidy. He asked them to consider mature, tall trees, because of headlights from people driving down the new streets. He believes all the homes that back up to this property have their bedrooms on the second floor and would prefer not to have headlights shining into their bedrooms.

Pam Campanaro lives at 3790 Vancouver Drive in the Rolling Hills subdivision. She has lived in Rolling Hills for about 18 years. She is aware of the zoning of which this property has always been. She would much rather see quality homes built in this area, versus a strip mall or something else like that. One of her concerns is the traffic. She said that the County and the builders have been great as far as meeting with them and discussing their concerns. Her main concern is in the morning as so many students and parents are trying to get their kids to school by coming down Mount Rose Highway and getting onto Butch Cassidy. Her concern is because the subdivision that is planning to go in this area includes 94 homes, so people are going to be coming out of this extension of Butch Cassidy. She does not see how these people are going to get out in the morning if a stop sign is put in, because it is a flow of traffic that just keeps going. She comes from Rolling Hills and has the right-of-way. But she sees so many people just waiting at that area not being able to get through onto Butch Cassidy to get to the high school. The second thing is De Spain Lane, which she thinks is a great idea. Originally when Galena High School was built, De Spain Lane was the only entrance into the school because they didn't have the other roads. She is on the PTO, and she meets with Tom Brown about every month. This is one of the things she discussed with him. He is open to meet with the builder and anybody else as far as trying to work on the traffic problem in the morning. She does not think,

at this time, that he is aware of De Spain Lane being an option as being brought to him by the builder or the County. In our state and in our county we don't have impact fees that we can charge to builders or ask them to contribute to the schools, but as seen from the presentation tonight, the schools are really in need of that. Ms. Campanaro said that it would be great to see the builder contribute to our schools.

Chair Barnes had one comment card from Ann Schnele of Rolling Hills development. She said, "My concern is that this development is going to lower the value of our development. At this time, there is nothing in our development lower than \$400,000. By the time the new development starts selling at \$400,000, it will bring down our values. I do not object to the development. I would just like to see bigger lots with less houses and houses going in equivalent to the current Rolling Hills development."

Chair Barnes asked for Commission questions.

Commissioner Chesney asked the developer's representative if they are doing anything to mitigate the noise from their development to the folks that abut from Rolling Hills.

Mr. Krmpotic said that it is landscaping, and they are going to completely redo the privacy fence, plus put in gates. That is what they asked for. They would be screening headlights and absorbing noise with landscape and the fencing. They will have to jockey around some driveways that serve access to the RV parking. He showed the driveways between trees; that is their best estimate of where the actual gate is today. He showed the street trees for handling noise.

Commissioner Horan said that as you move up Mount Rose on the north side, on the other side of Thomas Creek, where now Monte Vista is and where the Estates are on the left-hand side, particularly on the north side, they have done some berming. He thinks this makes a difference in the approach, but they are so close to the highway that they might have an issue with the berming. It seems to him, as you go down, that berming on the right side on the highway would be much more effective. He is just suggesting that it might be a better way to do it.

Mr. Krmpotic said that they do have berming up to four feet. That is about as high as they can go in the area that they have, because you get into a three-to-one slope.

Commissioner Horan said that he comes down Mount Rose quite frequently. He is glad to see that they are putting in a turn lane to decelerate coming down east. He would hope that on the traffic side they would eliminate the left-hand turn coming out of you going up the highway, because that is an accident waiting to happen.

Mr. Krmpotic said there has been a lot of emotion and analysis of that issue. He believes they have come to a good term on it. He asked Chair Barnes if he could speak on the density. He said it is not the prettiest land plan they have ever seen, but it is 4.6 to the acre. A land plan is all two-dimensional. You look at the highest price per square foot single-family in the region, other than Montreaux, and it is Southwest Reno with 4000-square-foot lots in the old Newlands neighborhood. It is a grid neighborhood. There are no curvilinear streets. You get a canopy of trees, narrow streets, charming architecture, and it works brilliantly. It is hard to see with a two-dimensional plan. His point is that it will take some time. You need the reduced setbacks. They would not want 30-foot wide houses with 15-foot setbacks. It would look terrible. The five-foot setback is a choice for anyone who buys in there. They will have a nice house on a lot that is a little bit narrower than what is up there today. They are not going to compromise architecture or the quality of the neighborhood when it becomes more mature. It is a little denser. There is a market segmentation issue there. There is a pricing issue. That is what is

going on here and the fact that they have five to the acre is part of the deal. They are not asking for a zone change or a Master Plan amendment. They are not asking for a use permit. It is just a subdivision map to do 4.6 to the acre. They have done some beautiful curvilinear type street designs; they do not work for this site. They have several iterations. For this he would give credit to their civil engineer who came up with the idea. This makes perfect sense for what they are talking about. They do have, on the very west end, an urban interface protection zone that is 25-feet wide, so that would be addressed by that one gentleman's comments. The screening on the north side, so overtime with the one-story it really addresses that visual concern from the highway with the berming and the landscaping and then the one-story. He thinks it is making the best of it. He does not want to associate the grid type of neotraditional design with an a-quality neighborhood. They do not go hand in hand. He mentioned one-acre lots where you have people that cannot afford landscaping. He suggested taking a look at the way that some of the properties are maintained in Panther Valley one-acre lots. They do not have complete landscaping. You start getting kind of junky yards. That is the flipside of big lots that are not well landscaped and kept.

Commissioner Prough stated that he is always concerned about traffic, water, and schools. He believes the traffic has been addressed adequately and the water. It was said by Mr. Krmpotic or the applicant that they anticipated 25 new students. One of the neighbors asked how that could possibly be with that many homes. There would be more like 100 students. Commissioner Prough asked Mr. Krmpotic the price point for this type of housing, single-family homes. He said that would determine the type of demographic that will go into that area.

Mr. Krmpotic answered 400 on average.

Commissioner Prough confirmed \$400,000 on this project. He said that will determine the type of people who live there and how many children they will have or not have. Are they professionals? Can they afford that? The whole school issue, especially in light of the earlier presentation, concerns him.

Mr. Krmpotic said that it came up in both of their meetings. He said that he has to trust the School District, and they have quite a system in projecting student population.

Commissioner Chesney asked Mr. Lloyd if the final design for this development would come in front of the Design Review Committee.

Mr. Lloyd affirmed that it would.

Commissioner Chesney said that should provide a sense of security that there will not be something that does not fit into the scenic corridor.

Commissioner Horan asked Mr. Lloyd about the zoning for the two pieces of property to the east, immediately down the hill.

Mr. Lloyd replied that they are General Commercial.

Commissioner Horan asked if they could be approached to change that to residential, as well.

Mr. Lloyd answered that they could request it, as anyone has the option to request a Master Plan and zone change. But at this time it is designated for commercial use.

Commissioner Edwards addressed Mr. Lloyd. He drove it today, and on the west end of the property is Sugarloaf Mountain. He asked if that was completely off of the 20 acres being

discussed. He said this is the really flat part of those two lots. He wanted to make sure that they were not going to end up with any density transferred down the road to make it ten per acre or anything like that.

Mr. Lloyd said that in the unincorporated part of Washoe County, five is the limit based on the Regional Plan. They are restricted by Regional Planning with the densities. Higher densities above five have to be located in the city. The only way that what Commissioner Edwards is talking about could happen is if annexation by the city. Mr. Lloyd does not anticipate that happening.

Commissioner Edwards asked if a homeowner's association is recording this plan.

Mr. Lloyd answered yes.

Commissioner Edwards spoke of the houses on the south side of Butch Cassidy. He said that they already have fences abutting where Butch Cassidy is going to go. He asked why they would be required to put in an additional fence. He feels the trees would be a realistic thing to use in an area like that Mount Rose area that needs all the trees it can get. Another fence seems to him like the gauntlet thing they were trying to get away from. He said that they also showed a fence on the Mount Rose Highway side, and he thought that was all going to be vegetation fencing.

Mr. Lloyd responded that it will be low-lying fencing on the Mount Rose side. Four-and-a-half foot is the maximum that is allowed based on the Mount Rose Scenic Corridor standard. That is the Mount Rose side. The fencing along the south side of Butch Cassidy was essentially negotiated between the applicants and the homeowners. The applicants have offered to replace that existing fencing, which is getting old in some locations, and put up new fencing, as well as gates to allow for some of the folks to access onto Butch Cassidy.

Vice Chair Chvilicek had a concern about the reduction to a five-foot setback. She is looking at this as a mixed use development butting up against larger properties. These are higher density properties, so it constitutes that mixed use that allows for a mixed use of people at different socioeconomic opportunities to move in and out. But setbacks that small are very disconcerting to her. The other issue is the fire mitigation. It says that Truckee Meadows Fire Protection District will address that, but the homeowners' association and the CC&Rs could include language to require certain types of landscaping and vegetation. In terms of living within a fire adapted community and ensuring that they are managing best practices, the image of a cedar fence with concrete center poles on Mount Rose is disturbing in terms of fire. Nothing burns faster than cedar. And the schools – they will keep addressing that until forever. This is oppositional to the Forest Plan, which says the setbacks have to be a certain specific area. Those Area Plans were written that way to maintain the lifestyle that the community has come to expect. Those are just too small of setbacks. It says five units per acre. Vice Chair Chvilicek addressed the applicant. As they see those lines, she asked if fencing is going to be the property line division as the lots back up against each other. She asked if there will be some type of landscaping in the middle of that cul-de-sac.

Mr. Krmpotic replied, "Yes."

Vice Chair Chvilicek asked if those lots will have a common property line. She asked if the lots, as they back up against each other, will have a common property line fence.

Mr. Krmpotic agreed.

Vice Chair Chvilicek asked for an estimate of the lot size.

Mr. Krmpotic answered 7,000 on average, just under 7,000. He said that he was mistaken on the landscape bulb. He forgot that fire would not go for those. They had to remove the landscaping internal to the bulb.

Mr. Lloyd made a point of clarification on the landscape plan. During the agency review meeting with the reviewing agencies, one of the very first items that came up was the landscape bulbs at the end of the roadways. Both fire and engineering will not allow the landscaping. It creates too much problem for turnaround for large vehicles.

Commissioner Daly stated that this is in his district. He had a lot of concerns. He began with traffic. The NDOT letter of March 21st suggests that an eastbound Mount Rose highway to southbound Edmonton deceleration lane is warranted. It does not say it is required. They also say that a pork chop intersection at Mount Rose Highway and Edmonton, limiting westbound turns onto Mount Rose Highway from northbound Edmonton, limiting to only eastbound turning onto Mount Rose Highway, is the most economical and safest solution. It does not say it is required. He does not see anything in the suggested motion from staff that would impose those conditions on the tentative map amendment, so at the appropriate time he will be making a motion to amend the motion to require those as a mandatory provision of the tentative map amendment, assuming that is permitted by counsel. He spoke about elementary schools. They already know that the existing elementary school is over capacity, with temporary classrooms. He said adding 25 to 100 elementary school students will make a bad situation worse. There is no short-term plan or near-term plan to expand Hunsberger Elementary. He asked where the kids are going to go. Add more temporary classrooms. This is a scenic corridor, notwithstanding the legislature's designation of the strip in Vegas as scenic. This is the only scenic corridor in Nevada. He believes that this density in this development will turn Mount Rose Highway into a concrete corridor. Not on his watch. Not with his vote. He said that the density is the problem, as to schools, as to traffic, as to visual impact. There is a fire issue. The County and the Fire District have said if you have a high-hazard, wildland community, which this community is, you have to have a 50-foot setback of defensible space, meaning basically nothing in those 50 feet can burn. The westernmost parcels on this plan would mean that the distance from the structure to the property line has to be at least 50 feet clear, which means no wooden fences. They are the first thing that burns. There are skinny lots and not very deep lots. There will be skinny houses that they will want to build as far back as possible. There is the water issue. The entire Mount Rose corridor has a water problem. People are having to dig deeper wells. There is a well mitigation program funded by the County. He believes this would make a bad situation worse. He thinks the residential development of this community is better than the commercial development; it is just a question of density. If you can sell houses for \$400,000, you can sell them for \$800,000, you just have a different demographic. Bigger lots, fewer houses, less visual impact on the scenic corridor, less impact on the schools, less of a fire risk, less of a traffic problem. He will not approve the motion proposed by staff. He will move to amend it. If it does not get amended satisfactorily, then he will vote against it.

Chair Barnes called for additional Commission questions. There were none.

Chair Barnes closed the public hearing. He called for discussion among the Commissioners.

Commissioner Daly asked to hear the recommendation they heard earlier for a revised traffic plan. He would like to hear from the Fire Marshal about the setback provisions at the perimeter of the community under the Wildland Urban Interface Code. He said that they had a report from the Fire Marshal that does not mention that issue. This community almost burned to the ground four years ago. The only thing that stopped Galena High School from burning was the asphalt

parking lot. He would like to hear about a mandatory agreement between the developer to do the deceleration lane and the pork chop intersection. That would allay the fears of many people who drive up and down that highway every day past this development. He thought that the vote that night would be premature, and wanted to move to continue the matter to the next meeting.

Chair Barnes called for a motion.

Commissioner Daly moved to continue the matter to the May meeting and requested that staff report back on issues related to traffic, schools, and fire, at a minimum, based on the conversations of the evening.

Vice Chair Chvilicek seconded the motion.

Chair Barnes called for discussion on the motion. There was no discussion.

Chair Barnes called for a vote. The motion passed unanimously, with a vote of seven for, none against.

DDA Edwards asked to have the votes called out for the record. Recording Secretary Emerson called roll. Each of the seven Commissioners voted in favor of the motion.

Chair Barnes called for a minute and half for break to allow DDA Edwards to look over something.

C. Regulatory Zone Amendment Case Number RZA15-009 (Black Rock Station Specific Plan) (Continued from March 1, 2016) – Hearing, discussion, and possible action to recommend modification and tentative adoption, or tentative adoption without modification, by resolution a Regulatory Zone Amendment and the accompanying Development Standards Handbook; and, to require that an application for final approval be filed within 12 months of final adoption; and to authorize the Chair to sign the resolution. The regulatory zone amendment will change the current regulatory zone from General Rural to Specific Plan to establish a mix of Residential and Industrial uses for the general purpose of creating a permanent base of operations for the annual Burning Man event held in neighboring Pershing County. The Development Standards Handbook establishes all necessary development standards and provides maps of the site design including the location of proposed uses. The adoption of the proposed regulatory zone and the Development Standards Handbook will supersede and include all previous Special Use Permits granted to the parcel including SB03-24 (Auto Repair); SW03-25 (Light Industrial Wood/Metal Fabrication), SW04-004 (Storage/Distribution), SW04-007 (Inoperable Vehicle Storage), SW04-008 Communication Facility/Commercial Antenna, and SB04-009 (Operable Vehicle Storage).

- Applicant: Black Rock City, LLC
- Property Owner: Black Rock City, LLC
- Location: 88 Jackson Lane, Gerlach, NV 89412
- Assessor's Parcel Number: 086-030-23
- Parcel Size: 200 Acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: High Desert
- Citizen Advisory Board: Presently Inactive
- Development Code: Article 442, Specific Plan Standards And Procedures

- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 30, T35N, R22E, MDM,
Washoe County, NV
- Prepared by: Eric Young, Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3613
- E-Mail: eyoung@washoecounty.us

Mr. Webb provided a description of the item. He noted that the item was continued from the March 1, 2016 meeting.

Chair Barnes asked for ethos or ex parte disclosures. Vice Chair Chvilicek visited the property. Commissioner Chesney also visited the property.

Chair Barnes opened the public hearing.

Eric Young presented his staff report, dated March 22, 2016.

Commissioner Edwards disclosed that he also did a site visit.

Chair Barnes called for an applicant presentation.

Derek Wilson, with Rubicon Design Group, spoke on behalf of Burning Man. He thanked everyone for taking the extra time and effort to study this some more and to go out there. He understands that this is a complex piece of property, and Burning Man is a large organization with the potential to have impacts. He pointed out that the staff report made it sound as though there had been a lack of coordination on the part of the property owner over the years. They can point to missteps, but their goal has always been to work with the County. They want to get along and make the property function. This has included multiple Community Development directors, multiple staff, and multiple iterations of the code. They have been working on this for quite a while and want to move in the right direction and always have wanted to. They knew that the SUP process was not ideal and did not meet anybody's needs, but there was not a better mechanism. Now that the Specific Plan code is in place, they figure that this is the better mechanism. Their goal remains the same. They want to bring predictability and transparency to the site. They heard the big points that were made at the meeting a month ago. They removed the commercial uses. Mr. Wilson would love to see a world where they can incorporate some of those uses, not because Burning Man wants to make money, but because they enjoy showing off the high desert to visitors. On the other hand, he appreciates that it probably does not need to be part of this application; - He can see them pursuing a different mechanism for that if the time is right. He said they could let this stand alone for its core purpose. They also limited the total occupancy, so he thinks they are hitting some numbers that are livable for all parties. He added a wording change. Burning Man legal staff got a hold of this and thought that a wording change was in order. It makes it a little clearer and less judgmental. They do not object to the intent. They want to get along with people and do not want to see reckless behavior. People who go out there tend to appreciate it and want to be there. They are happy to put on this belt-and-suspenders approach, but they would like to make it workable and congenial. It is a minor wording change. If anyone had questions or objections, then Mr. Wilson would be happy to go over it or revise it further. His final point was that they continue to meet with reviewing agencies – water, fire, and all those things to which they are going to adhere. There is no way they would avoid it. With any new construction, they will come in for additional permits and review.

Chair Barnes called for public comment.

There was one request to speak from Cathy Brandhorst, but Ms. Brandhorst was no longer present.

Chair Barnes called for Commission questions.

Vice Chair Chvilicek commended County staff, Rubicon, and Burning Man for making the allowances and the considerations for them to do the site visits. She thanked them for the time and the professional approach. During her visit at the project, she asked Mr. Wilson to what level the outreach was to the community. She asked Mr. Wilson to restate what he told her and how many times he did connect with the community and how many times he tried to make outreach to specific neighbors.

Mr. Wilson answered that both he and Mike Railey with Rubicon have been a presence in Gerlach many times over the years. Mr. Railey has worked with Burning Man for about 10 years. For this specific project, they made repeat presentations to neighborhood groups, including the old CAB. During that time, there was a clear shift in attitude from "what are you doing to our community" to "when are you going to bring us something or bring us some development". Mr. Wilson said that it was pleasurable to see that Burning Man had really integrated themselves into the community. There is one direct neighbor to this site. Mr. Wilson called him and offered to meet at his place or anywhere else, and he refused. Burning Man staff has talked to him over the years, sometimes with success and sometimes not. They also organized two public meetings that Mr. Railey and Mr. Wilson both attended in Gerlach. They arranged those around the schedule that Ron Cole specifically requested. In both cases, he failed to show up. Mr. Wilson cannot claim a lot of success there, but he thinks that is the way that Mr. Cole likes it. He feels like they have done all that they can do.

Vice Chair Chvilicek said that when she did the site review, in terms of when they had gone through the special use permits and all of the different ways that this project developed or evolved, she applauded staff for remembering the High Desert plan in terms of vegetation and landscaping. It was revealed to her that they have a 4.2 acre feet allotment, and 3.9 acre feet is used to try to keep trees alive without success. She appreciates acknowledgement of the High Desert Area Plan to put in compatible landscaping and not try to make trees grow.

Mr. Wilson agreed with Vice Chair Chvilicek. He stated that Eric Young has moved this in the right direction in that regard. He said that you can interpret a conflict in the code where there are suburban standards for landscaping and then high desert standards, and they do not necessarily agree. In the past, they were held to the more suburban standard. They never liked it, and they pushed back against it. But they did not have an escape route. Mr. Young brought some new thinking to that.

Vice Chair Chvilicek said that area plans trump everything else. She noted that as she was approaching the project, the screening from the road to the project was fabulous. You hardly see anything. The screening is very appropriate. She made a special note that as she was leaving Gerlach and driving towards Pyramid Highway back toward Reno, there is a right by the railroad tracks in the middle of where those two roads converge. There are lots of storage containers with no screening whatsoever. So there are screening requirements for this property, but not for all of those 30 or 40 storage containers that are in a circle. That was just a notation. She thanked staff and the applicant for allowing them to visit the project.

Commissioner Chesney said that he is a logistical fan, and he has watched military movements over the years and industrial movements, like the Ports of Oakland and Los Angeles. When he drove up to the property, it was like a little bitty Port of Oakland or a little bitty Port of Los Angeles. Everything was neat, orderly, spaced and numbered and painted. They have a few little artifacts from Burning Man that they put in a park area. They even have a handicapped parking spot. He was really impressed. Commissioner Chesney feels that the Nevada property manager for Burning Man is phenomenal, knows exactly what she is doing, and has it together. Once it was explained to him how they move all of that stuff out on the desert in a period of days, he was amazed. He felt that you should never prejudge their logistical operation in comparison to the event. It is a totally different thing. He was really impressed.

Mr. Webb asked the Chair if they were still asking questions of the applicant or if he had closed the public hearing and brought it back to the Commission for discussion

Chair Barnes said that they had closed the public hearing and brought it back to the Commission.

Mr. Webb said that as a precursor for their discussion, a handout was provided to them by Mr. Willson. The handout is referenced as Exhibit 1. If the Commission's desire is to include this change, then he suggested that they include a reference to this exhibit specifically in the motion. He said that they could refer to it as Exhibit 1, as provided during the meeting. Specific to this document, legal counsel had one suggested change with one word. In the first group of red text, the last sentence reads: "The same standards and applicable laws that apply in urban and suburban areas apply at the site, including..." Legal counsel asked to add the word "any" prior to "...prohibitions on trespassing, use of illegal drugs..." and on and on. It was the addition of the word "any" just before prohibitions.

Commissioner Horan said that he was unfortunately unable to visit the site. He appreciates the three fellow Commissioners who were able to go out and view the site and give their input on how the organization is being run.

Chair Barnes said that he had another meeting and was unable to go. He is glad that the three Commissioners did go. He asked if any other Commissioner would like to tell their impressions of visiting the site.

Commissioner Edwards said that it used to be his chukar hunting area 40 years ago and has not changed that much. He said that this is really not close to the playa. He was impressed by the way the privacy fencing took all the construction sheds and did away with them. The welcoming center house, the first one out front, fits in with the neighborhood. He also looked at the one letter they had from a neighbor saying it was blocking his possible visibility of the sky geyser. Commissioner Edwards checked the distance. It is a mile and a quarter, a mile and a half away, and unless there is steam coming out of the geyser, you would be hard pressed to even locate it on the horizon. Unless they are going to build another 20-foot structure, Commissioner Edwards really does not think they could possibly impact his visibility or view of the geyser. As long as they keep that mind, because he does not know what they have planned for that lower easterly part of the project, then he has no problems with the project. It is a perfect project for that area and the kind of development that they need in rural Nevada.

Chair Barnes called for any other Commission discussion or questions. There were none.

Chair Barnes called for a motion.

Commissioner Edwards moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission recommend approval of RZA15-009 for the Washoe County Board of County Commissioners to tentatively adopt the proposed Regulatory Zone Amendment and the accompanying Development Standards Handbook; and to require that an application for final approval be filed within 12 months of final adoption; and to authorize the Chair to sign the resolution, having made all of the following findings in accordance with Washoe County Code Sections 110.821.15 and 110.442.55, 10, including Exhibit 1 with changes noted.

1. Consistency with Master Plan. The proposed amendment is in substantial compliance with the policies and action programs of the Master Plan and the Regulatory Zone map;
2. Compatible Land Uses. The proposed amendment will provide for land use compatible with (existing or planned) adjacent land uses, and will not adversely impact the public health, safety or welfare;
3. Response to Change Conditions. The proposed amendment responds to changed conditions or further studies that have occurred since the plan was adopted by the Board of County Commissioners, and the requested amendment represents a more desirable utilization of land;
4. Availability of Facilities. There are adequate transportation, recreation, utility and other facilities to accommodate the uses and densities permitted by the proposed Regulatory Zone Amendment;
5. Master Plan Policies and Action Programs. The proposed amendment will not adversely affect the implementation of the policies and action programs of the Washoe County Master Plan;
6. Desired Pattern of Growth. The proposed amendment will promote the desired pattern for the orderly physical growth of the County and guides development of the County based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services, and
7. Consistency with Specific Plan Standards. The proposed amendment is consistent with statements of objectives of a Specific Plan as set forth in Article 442.
8. Departures from regulatory zone requirements are in the public interest. The proposed amendment's departures from regulatory zone requirements otherwise applicable to the subject property are in the public interest because the development standards handbook provides for a tailored list of uses and these uses contain additional development standards to promote compatibility.
9. Residential/nonresidential ratio. The proposed amendment's residential/nonresidential ratio is in the public interest.
10. Adequacy of common open space. The purpose, location and amount of the common open space in the proposed amendment are adequate to serve the developments as outlined in the Development Standards Handbook.

11. Maintenance of Common Open Space. The proposed amendment's proposals for the maintenance of common open space are reliable.
12. Adequacy of public services, traffic and amenities. The physical design of the plan as presented in the Development Standards Handbook and the timing of the development makes adequate provisions for public services; provides adequate control over vehicular traffic; and, furthers the amenities of light and air, recreation and visual enjoyment.
13. Relationship to neighborhood. The proposed amendment provides for a beneficial relationship to the neighborhood.
14. Schedule sufficiency. The proposed amendment's terms and conditions of development as presented in the Developments Standards Handbook is sufficient and protects the public's, residents' and owners' interests in the integrity of the plan.

Commissioner Chesney seconded the motion.

Chair Barnes called for discussion on the motion. There was no discussion.

Chair Barnes called for a vote. The motion passed unanimously, with a vote of seven for, none against.

10. Chair and Commission Items

***A. Future agenda items**

None

***B. Requests for information from staff**

Commissioner Prough asked if Sugarloaf and Blackstone had been brought to the Board of County Commissioners the previous month.

11. Director's and Legal Counsel's Items

***A. Report on previous Planning Commission items**

Mr. Webb provided an update on Blackstone Estates and Sugarloaf Ranch Estates. The report that the Planning Commission provided at their March 1, 2016 meeting will be heard by the County Commission at their April 12, 2016 meeting. The County Commission will be able to approve the Master Plan and Regulatory Zone Amendments if they so choose after considering the Planning Commission's report.

Mr. Webb stated that Planning Commissioner Barnes will be on the agenda for reappointment to the Planning Commission at the April 26, 2016 County Commission meeting. Planning Commissioner Chesney will be on the agenda for appointment to the Regional Planning Commission as the first alternate for the Planning Commission to the Regional Planning Commission. Commissioner Chesney is being recommended to fill Commissioner Edwards' vacancy when Commissioner Edwards' term ends. After that happens, there will be an item on the Planning Commission agenda for the Commission to reconsider the order of alternates for the Regional Planning Commission.

Mr. Webb referenced the Development Code Amendment for wineries on which the Planning Commission took no action. Senior Planner Chad Glesinger is arranging a public workshop to discuss the potential changes. There is no firm date on which the Development Code Amendment will return to the Planning Commission.

***B Legal Information and updates**

DDA Edwards spoke about two pending lawsuits against the County. One is concerning the Warm Springs Specific Plan, and one is concerning the location of a cell tower and other related issues on a private parcel in Washoe Valley. Both are still pending and waiting for a decision on a motion to dismiss, which DDA Edwards filed on both lawsuits.

12. *General Public Comment

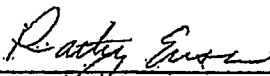
There was one request to speak from Cathy Brandhorst, but Ms. Brandhorst was no longer present.

Bill Whitney, Planning and Development Director, reminded the Planning Commission that their joint meeting with the Reno Planning Commission is scheduled for April 20, 2016 at 6:00 p.m. at Reno City Council Chambers. This is to amend the Reno-Stead Corridor Joint Plan. Reno will be putting out the agenda and packets.

13. Adjournment

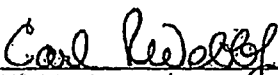
With no further business scheduled before the Planning Commission, the meeting adjourned at 9:09 p.m.

Respectfully submitted,



Kathy Emerson, Recording Secretary

Approved by Commission in session on May 3, 2016.



Carl R. Webb, Jr., AICP
Secretary to the Planning Commission

EXHIBIT 2

Small highway's pretty views blocked by big developments



ONE VIEW
THOMAS G. DALY

Mt. Rose Highway is, arguably, the only scenic corridor in Nevada, notwithstanding the Nevada Legislature designating the Las Vegas strip as "scenic." (Please.)

Despite Nevada's 110,567 square miles, only this state route, about a 24 mile-long stretch starting at South Virginia Street and ending at Incline Village, warrants this designation.

So you might think that those federal, city of Reno and Washoe County entities, who control the zoning and development decisions along this highway, would carefully limit such plans to ensure they do not ruin for eternity this very small venue of spectacular views for those who transit this corridor.

Well, you might be wrong.

The city of Reno has approved a massive apartment development on the easternmost end of Mt. Rose Highway opposite the Summit Mall. So much for the mayor and City Council's commitment to scenic beauty. They value only the tax revenue. Enjoy your 30 pieces of silver, at least until the next election.

Now Washoe County has been asked to approve a high-density residential community (94 houses on 20 acres — 4.68 houses per acre — on reduced-size lots) called Colina Rose, on the south side of Mt. Rose Highway, west of Edmonton Drive.

The project's applicant, Towne Development of Sacramento presented their plan April 5, which was demonstratively rejected by local community residents, this commissioner and the entire county Planning Commission as not in keeping with the density (adjacent communities are 3 houses per acre) and visual impact appropriate for this scenic corridor. Further, traffic

concerns, the impact on schools and fire issues were not adequately addressed in the applicant's plan.

Your Planning Commission has continued this matter to their May 3 meeting for further review.

This proposed high-density development would further overwhelm an already overtaxed Hunsberger Elementary School, now at 103 percent of capacity, without any offer by the developer to perhaps provide for one or more temporary classrooms, a Band-Aid solution but at least a fig leaf to the community.

Traffic safety issues, including a needed deceleration lane from eastbound Mt. Rose Highway to southbound Edmonton Drive and a limitation on exiting northbound Edmonton Drive to westbound Mt. Rose Highway, were not in the application as mandatory conditions of approval. Per NDOT, this intersection does not warrant a traffic signal.

The plan's westernmost homes, to be built on proposed dense skinny lots (lot setbacks reduced to 5 feet) are adjacent to an untreated "high hazard" wildfire zone but show no clear space, as required by the county and TMFPD wildfire code. Further, on the plan the four new streets with cul-de-sacs show an island on each, limiting fire vehicle turnaround, in contradiction to fire code regulations.

Due to a quirk in the county's development code, this project is not subject to a special use permit, so your Planning Commission has only this one opportunity to impose conditions of approval.

I support residential development for these parcels, now zoned "neighborhood commercial," but the applicant's planned excessive density, lack of appreciation for the scenic corridor and unaddressed traffic, school and fire issues are unacceptable.

Not on my watch and not with my vote.

Thomas G. Daly is a member of the Washoe County Planning Commission.

So you might think that those federal, city of Reno and Washoe County entities ... would carefully limit such plans to ensure they do not ruin for eternity this very small venue of spectacular views for those who transit this corridor.

ANDY BARRON/RGJ FILE

In this file photo from March 2014, a car travels along a snowy Mt. Rose Highway near Reno.

EXHIBIT 3

Lewis Roca
ROTHGERBER CHRISTIE

Lewis Roca Rothgerber Christie LLP
50 West Liberty Street
Suite 410
Reno, NV 89501

775 823 2900 main
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lrcc.com

Kristen L. Martini
Admitted in Nevada and California
775.321.3448 direct
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kmartini@lrcc.com

May 3, 2016

VIA E-MAIL (BWHITNEY@WASHOECOUNTY.US)
VIA FACSIMILE (775.328.6133)

Bill Whitney
Planning and Development Division Director
Washoe County Planning Commission
Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

Re: Towne Development of Sacramento, Inc.'s Application: Tentative Subdivision
Map Case Number: TM16-001, Colina Rosa Subdivision

Dear Mr. Whitney,

We represent Towne Development of Sacramento, Inc. ("TDS"), in connection with the above-referenced matter. As you are aware, the public hearing for TDS's Application is scheduled for today, May 3, 2016, at 6:30 p.m. However, it has come to our attention that Planning Commission Member Thomas Daly has made an impermissible communication outside of the public hearing from which prehearing bias may be perceived. As a result, we respectfully request that Commissioner Daly abstain from voting on TDS's Application.


More specifically, on April 19, 2016, the Reno Gazette Journal published an article authored by Commissioner Daly in which he expressed his thoughts on the proposed project. This article is enclosed for your review. Throughout the article, entitled "Mt. Rose Highway—scenic corridor or concrete canyon?", Commissioner Daly presents his preconceived thoughts and preferences regarding his clear distaste for the proposed project. "Not on my watch and not with my vote," was his closing remark. The Washoe County Planning Commission Rules, Policies and Procedures Article 1.05(a)(ii)(d) prohibits such communications: "Commissioners must keep an open mind and not form or communicate any preferences or thoughts that may be perceived as prehearing bias."

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Albuquerque / Colorado Springs / Denver / Irvine / Las Vegas / Los Angeles / Phoenix / Reno / Silicon Valley / Tucson

In light of Commissioner's Daly's published article, him abstaining from voting in this matter is warranted and appropriate.

Very truly yours,



Kristen L. Martini
Lewis Roca Rothgerber Christie LLP

KLM
Enclosure

Cc: Nathan Edwards (nedwards@dc.washoecounty.us)
Trevor Lloyd (tlloyd@washoecounty.us)

EXHIBIT 4



WASHOE COUNTY PLANNING COMMISSION Notice of Meeting and Agenda

Planning Commission Members

James Barnes, Chair
Sarah Chvllcek, Vice Chair
Larry Chesney
Thomas Daly
Roger Edwards
Phillip Horan
Greg Prough
Carl R. Webb, Jr., AICP, Secretary

Tuesday, May 3, 2016
6:30 p.m.

Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

PUBLIC HEARING ITEMS SCHEDULED ON THIS AGENDA

(Complete descriptions are provided beginning on the second page.)

- Tentative Map Case Number TM16-001 (Colina Rosa)
- Abandonment Case Number AB15-005 (MK III Holdings, LLC)

Items for Possible Action. All numbered or lettered items on this agenda are hereby designated for possible action as if the words "for possible action" were written next to each item (NRS 241.020), except for items marked with an asterisk (*). Those items marked with an asterisk (*) may be discussed but action will not be taken on them.

Possible Changes to Agenda Order and Timing. Discussion may be delayed on any item on this agenda, and items on this agenda may be taken out of order, combined with other items and discussed or voted on as a block, removed from the agenda, moved to the agenda of another later meeting, moved to or from the consent section. Items designated for a specified time will not be heard before that time, but may be delayed beyond the specified time.

Public Comment. During the "General Public Comment" items listed below, anyone may speak pertaining to any matter either on or off the agenda, to include items to be heard on consent. For the remainder of the agenda, public comment will only be heard during public hearing and planning items that are *not* marked with an asterisk (*). Any public comment for hearing and planning items will be heard before action is taken on the item and must be about the specific item being considered by the Commission. In order to speak during any public comment, each speaker must fill out a "Request to Speak" form and/or submit comments for the record to the Recording Secretary. Public comment and presentations for individual agenda items are limited as follows: fifteen minutes each for staff and applicant presentations, five minutes for a speaker representing a group, and three minutes for individual speakers unless extended by questions from the Commission or by action of the Chair. Comments are to be directed to the Commission as a whole and not to one individual.

Public Participation. At least one copy of items displayed and at least ten copies of any written or graphic material for the Commission's consideration should be provided to the Recording Secretary.

Forum Restrictions and Orderly Conduct of Business. The Planning Commission conducts the business of Washoe County and its citizens during its meetings. The Chair may order the removal of any person or group of persons whose statement or other conduct disrupts the orderly, efficient or safe conduct of the meeting to the extent that its orderly conduct is made impractical. Warnings against disruptive comments or behavior may or may not be given prior to removal. The viewpoint of a speaker will not be restricted, but reasonable restrictions may be imposed upon the time, place and manner of speech. Irrelevant and unduly repetitious statements and personal attacks which antagonize or incite are examples of speech that may be reasonably limited.

Posting of Agenda; Location of Website. In accordance with NRS 241.020, this agenda has been posted at: <https://notice.nv.gov>, (i) Washoe County Administration Building (1001 E. 9th Street); (ii) Washoe County Courthouse (Court and Virginia Streets); (iii) Washoe County Library (301 South Center Street); and (iv) Sparks Justice Court (1675 East Prater Way, Suite 107).

How to Get Copies of Agenda and Support Material. Copies of this agenda and supporting materials may be obtained on the Planning and Development Division website (http://www.washoecounty.us/csd/planning_and_development/board_commission/planning_commission/index.php) or at the Planning and Development Division Office (contact Katy Stark, 1001 E. Ninth Street, Building A, Room A275, phone 775.328.3618, e-mail krstark@washoecounty.us). If you make a request, we can provide you with a link to a website, send you the material by email or prepare paper copies for you at no charge. Support material is available to the public at the same time it is distributed to Planning Commissioners. If material is distributed at a meeting, it is available within one business day after the meeting.

Special Accommodations. The facilities in which this meeting is being held are accessible to the disabled. Persons with disabilities who require special accommodations or assistance (e.g. sign language interpreters or assisted listening devices) at the meeting should notify the Washoe County Planning and Development Division, at 775.328.6100, two working days prior to the meeting.

Appeal Procedure. Most decisions rendered by the Planning Commission are appealable to the Board of County Commissioners. If you disagree with the decision of the Planning Commission and you want to appeal its action, call the Planning staff immediately at 775.328.6100. You will be informed of the appeal procedure, and application fee. Appeals must be in writing and must be delivered to the Planning and Development Division within 10 calendar days from the date that the decision being appealed is signed by the Planning Commission Chair and/or the Secretary to the Planning Commission, filed with the Secretary to the Planning Commission, and mailed to the original applicant in the proceeding being appealed, in accordance with Washoe County Code.

6:30 p.m.

1. *Determination of Quorum
2. *Pledge of Allegiance
3. *Ethics Law Announcement
4. *Appeal Procedure
5. *General Public Comment

Any person is invited to speak on any item on or off the agenda during this period. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on an agenda as an action item.

6. Possible Action to Approve Agenda
7. Possible Action to Approve April 5, 2016 Draft Minutes
8. Public Hearings

A. Tentative Map Case Number TM16-001 (Colina Rosa) (Continued from April 5, 2016) – Hearing, discussion, and possible action to approve a 94 lot common open space subdivision on two parcels totaling 20.1 acres.

- Applicant: Towne Development of Sacramento, Inc.

- Property Owner: Bernard Trust
- Location: 3800 Mount Rose Highway and 5185 Edmonton Dr.
- Assessor's Parcel Numbers: 049-402-02; 049-402-07
- Parcel Size: 20.1
- Master Plan Category: Commercial
- Regulatory Zone: Neighborhood Commercial (NC)
- Area Plan: Forest Area Plan
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Article 608 (Tentative Subdivision Maps) and Article 408 (Common Open Space Development)
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 30, T18N, R20E, MDM, Washoe County, NV
- Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

B. Abandonment Case Number AB15-005 (MK III Holdings, LLC) – Hearing, discussion, and possible action to abandon a portion of a Washoe County public right of way totaling approximately 15,472 square feet adjacent to two adjoining properties (APN: 044-320-51 and 52) owned by MK III Holdings, LLC, to allow for a reduction in the radius of the westbound right turn lane from Arrowcreek Parkway onto Zolezzi Lane to lower travel speeds entering a residential neighborhood.

- Applicant/Owner: MK III Holdings, LLC
Attn.: Kent Witt
PO Box 6142
Reno, NV 89513
- Location: Westbound right turn lane from Arrowcreek Parkway onto Zolezzi Lane
- Assessor's Parcel Numbers: 044-320-51 and 52
- Project Area Size: 15,472 square-feet
- Master Plan Categories: Commercial (C) and Suburban Residential (SR)
- Regulatory Zone: General Commercial (GC) and Medium Density Suburban (MDS)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 806, Vacations and Abandonments of Easements or Streets
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 17, T18N, R20E, MDM, Washoe County, NV
- Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

9. Planning Items

- A. Review and possible action to authorize transmittal of the 2015 Washoe County Regional Plan Annual Report**, as amended to incorporate Planning Commission comments, to the Truckee Meadows Regional Planning Commission and the Truckee Meadows Regional Planning Governing Board on behalf of the Washoe County Planning Commission (per *NRS 278.0286*), including any action taken within the previous calendar year which furthers or assists in carrying out the policies or programs contained in the comprehensive regional plan, and any work relating to the comprehensive regional plan that is proposed for the next fiscal year. The report will track the format of the comprehensive regional plan by addressing information relevant to major components of that plan, including (1) Regional Form and Pattern: regional form, cooperative plans and planning, and affordable housing; (2) Natural Resource Management: coordination of natural resources management, development constraints areas, open space & greenway plans, and the regional water management plan; (3) Public Services and Facilities: regional transportation plan, wastewater services & facilities, annexations, and local government/affected entities facilities plans; (4) General Review of the 2012 Truckee Meadows Comprehensive Regional Plan: 2017 regional plan update; and (5) Planned Policies or Projects in 2016 that will further or assist in carrying out the regional plan.

10. Chair and Commission Items

- *A. Future agenda items
- *B. Requests for information from staff

11. Director's and Legal Counsel's Items

- *A. Report on previous Planning Commission items
- *B. Legal information and updates

12. *General Public Comment

Any person is invited to speak on any item on or off the agenda during this period. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on an agenda as an action item.

13. Adjournment



WASHOE COUNTY PLANNING COMMISSION Meeting Minutes

Planning Commission Members

James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Thomas Daly
Roger Edwards
Phillip Horan
Greg Prough
Carl R. Webb, Jr., AICP, Secretary

Tuesday, May 3, 2016
6:30 p.m.

Washoe County Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Planning Commission met in a scheduled session on Tuesday, May 3, 2016, in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Barnes called the meeting to order at 6:30 p.m. The following Commissioners and staff were present:

Commissioners present: James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Thomas Daly
Roger Edwards
Phillip Horan
Greg Prough

Staff present: Carl R. Webb, Jr., AICP, Secretary, Planning and Development
Trevor Lloyd, Senior Planner, Planning and Development
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Dwayne E. Smith, Director, Engineering and Capital Projects
Katy Stark, Recording Secretary, Planning and Development
Kathy Emerson, Administrative Secretary Supervisor, Planning and Development

2. *Pledge of Allegiance

Commissioner Edwards led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Edwards provided the ethics procedure for disclosures.

4. *Appeal Procedure

Secretary Webb recited the appeal procedure for items heard before the Planning Commission. He noted that both public hearing items, 8A and 8B, are appealable. The planning item is not appealable.

5. *Public Comment

Chair Barnes opened the Public Comment period. There was no public comment.

6. Approval of Agenda

In accordance with the Open Meeting Law, Vice Chair Chvilicek moved to approve the agenda for the May 3, 2016 meeting as written. Commissioner Edwards seconded the motion, which passed unanimously with a vote of seven for, none against.

7. Approval of April 5, 2016 Draft Minutes

Commissioner Chesney moved to approve the minutes for the April 5, 2016, Planning Commission meeting. Commissioner Edwards seconded the motion. The minutes were approved unanimously with one substantive change and several wording/grammatical corrections requested by Commissioner Daly. Vote of seven for, none against.

8. Public Hearings

A. Tentative Map Case Number TM16-001 (Collina Rosa) (Continued from April 5, 2016) – Hearing, discussion, and possible action to approve a 94 lot common open space subdivision on two parcels totaling 20.1 acres.

- Applicant: Towne Development of Sacramento, Inc.
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- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 30, T18N, R20E, MDM, Washoe County, NV
- Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

Mr. Webb provided a description of the item. He added that Planner Trevor Lloyd had sent an email to the Planning Commissioners the previous day which contained responses to the concerns and questions raised by the Planning Commission at the April 5, 2016 meeting. He also included two emails from residents of the area. Mr. Lloyd's comments and those two emails were entered into the record. Earlier that day Washoe County Clerk Nancy Parent received an email from a constituent in the area and asked that a petition be entered into the record.

Several Commissioners responded that they had not received certain emails.

Mr. Webb requested that the administrative staff make copies for the Commissioners.

Chair Barnes called for ethics and ex-parte communications. Chair Barnes received numerous emails from neighbors in the area of the project and received two telephone calls and had two telephone conversations with the developer's representative. Commissioner Horan had a telephone call from the developer's representative, and he chose not to discuss with the representative. Commissioner Chesney was contacted by the applicant's representative. Vice Chair Chvilicek was contacted by the applicant's representative and received numerous emails.

Commissioner Daly asked Director Whitney by email if there was any change in the application or staff report tonight versus what they heard on April 5, 2016. He did not receive a response. The applicant called Commissioner Daly after the April fifth meeting to review the same issues that they had talked about both at the March fourteenth meeting with the community and the April fifth Planning Commission meeting – the impact on traffic, fire, scenic impact, school impact, and density. There were no changes or new items. He received emails and phone calls from residents of both the Rolling Hills community and the Mount Rose Corridor, all in opposition to the proposed development as it is currently put together. On April twenty-fourth, he authored an op-ed in the RGJ reiterating the arguments and issues for discussion from the March fourteenth and April fifth meetings. He had a meeting with counsel, who said that there was a potential for at least the speculative harm or hypothetical series of events may occur that might result in speculative harm and suggested that Commissioner Daly might consider recusing himself from the night's vote. He gave that considerable thought over the weekend and did not believe that speculative harm based on a series of hypotheticals, which may or may not occur, outweighs the actual harm done if he disenfranchises his constituents in District 2 from the vote on the matter or at least a discussion. He chose to opine on the matter that night.

DDA Edwards responded to Commissioner Daly's disclosures. He disagreed with the characterization of the advice that came from the District Attorney's Office that this is a scenario of speculative or hypothetical harmful outcomes. The letter that was written as an op-ed to the Reno Gazette-Journal was submitted outside of the hearing and while this hearing was still pending and has raised an issue and a problem. It was DDA Edwards' opinion, as the assigned representative of the District Attorney's Office, that Commissioner Daly did need to recuse himself. He was disqualified from participating in the matter and should abstain from voting, hearing the matter, or discussing it with fellow Planning Commissioners. He should not participate in the room or be in the room while the issue was being considered. It was ultimately a decision for Commissioner Daly to make. It was not DDA Edwards' decision whether Commissioner Daly stayed, but it was his job to provide legal advice and an opinion based on the facts that exist in the case. The applicant through legal counsel submitted a demand or request that Commissioner Daly recuse himself from the proceedings based on bias exhibited in his op-ed, which occurred outside of the meeting and prejudged the matters that were before the Planning Commission that night. DDA Edwards believed that three areas would be violated if Commissioner Daly continued to participate in these matters. The first was the Planning Commission's own Rules, Policies and Procedures, Rule 1.04, Subsection a.ii., Subsection d, which states that "Commissioners must keep an open mind and not form or communicate any preferences or thoughts that may be perceived as prehearing bias." That section is a reflection of the law in the State of Nevada and in the United States. The Nevada Supreme Court has stated in different cases, one being Gilman vs. Nevada State Board of Veterinary Medical Examiners (2004), which was overruled on grounds other than what DDA Edwards was about to discuss in the case. In that case, they talked about the rules of impartiality in administrative agency hearings where adjudications are taking place. This was an adjudicative proceeding. DDA Edwards quoted from the Matter of Ross (1983), also a Nevada Supreme Court case: "The United States Supreme Court has made it clear that the due process clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. It is further said not only is a biased decision maker constitutionally unacceptable, but our system of law has always endeavored to prevent even the probability of unfairness." That was the second ground of

disqualification in this case with respect to Commissioner Daly because of the letter. The first was rule 1.04; the second was due process and the right to an impartial adjudicative decision maker in civil matters, as well as in criminal, as stated by the Nevada Supreme Court. The last was NRS 281A.420. The statutes prohibit participation by public body members in decisions where they have made a commitment in a private capacity to the interests of others and that commitment would materially affect the independence of judgment of that person. In a case like this where outright opposition has been stated to the project that is coming before the Planning Commission on a continuation of the hearing, it is DDA Edwards' opinion that the section comes into play and that it would be a violation for Mr. Daly to continue to participate in the proceedings. DDA Edwards wanted his opinion stated very clearly on the record, because he thinks it is important that the Planning Commission be kept abreast of these rules and these limitations on its authority.

Chair Barnes asked DDA Edwards if he could tell the Commission what advice the DA's Office gave Commissioner Daly.

DDA Edwards did not provide the details of what was said, because of the nature of the meeting. He stated that the Commission had just heard a summarization of DDA Edwards' opinions on the matter in what he stated on the record.

Chair Barnes stated his understanding that it was Commissioner Daly's decision to stay if he wanted to stay.

DDA Edwards replied that it was up to him whether he followed the advice of counsel.

Commissioner Horan asked counsel if the other Commissioners had any options as far as the validity of the hearing they were going to have if Commissioner Daly remained.

DDA Edwards answered that it was a fair point. He believed that in these types of matters, each Commissioner makes a decision on the basis of advice from counsel. He would hesitate to say that someone else has the right to step in and try and remove or halt the proceeding if a Commissioner does not want to follow counsel's advice. He would not go that far. There was disagreement, but he could only state his opinion and leave it at that.

Commissioner Edwards asked counsel if there was a chance that their deliberations would be overturned if Commissioner Daly resided through the whole process.

DDA Edwards replied, "Yes."

Commissioner Prough disclosed that he received some emails and spoke with the developer's representative the previous week and did not get into serious discussions. Commissioner Edwards disclosed that he had emails from at least three homeowners and responded to two, only to say that they needed to read what neighborhood commercial really looks like, which was in the minutes of the first meeting.

Chair Barnes opened the public hearing.

Trevor Lloyd delivered an abbreviated presentation on the item, which had been reviewed in length at the previous Planning Commission meeting. He referenced emails that were provided for the Commissioners' review. At the previous month's meeting, there was a request for clarification in responses in terms of traffic, schools, and fire. Overall density was the other broad issue. However, it was asked that staff provide clarification in terms of the three identified issues. Regarding Washoe County School District, this property is zoned for Galena High

School, Pine Middle School, and Hunsberger Elementary. The School District anticipates that this subdivision would generate 25 additional school students, seven for the high school, four for the middle school, and 14 for the elementary school. The School District has a vested interest in making sure that their projections are complete and their numbers are accurate. They look at housing type and the geographic location. Currently Galena is operating at 83 percent capacity, Pine Middle School at 94 percent capacity, and Hunsberger is over capacity at 103 percent. This is a region wide problem and is not related specifically to this development or location. It is something that the School District will have to address with the anticipated influx throughout the region. The second issue had to do with fire. Truckee Meadows Fire will review all of the final drawings to make sure that they are in compliance with Washoe County Code 60 and 100. Right now they have a conceptual drawing. They recognize that this property is located within a high wildland urban interface area. For that reason Truckee Meadows Fire has imposed very stringent conditions requiring compliance. Mr. Lloyd encouraged the Commissioners to ask Fire Marshall Amy Ray any specific questions. Mr. Lloyd addressed traffic-related concerns. NDOT indicated that a deceleration lane along Mount Rose Highway approaching Edmonton is warranted. NDOT also asked for further study, for an addendum to the existing traffic study. Before they will commit to conditioning any additional mitigation, they would ask the applicants through a condition to provide that study. Mr. Lloyd asked for the amendment of Condition 6a to require the applicant to construct a deceleration lane prior to the issuance of the first certificate of occupancy. This is following their study. This language was passed through NDOT, and they were satisfied that this would comply with their requirements. This is the purview and the jurisdiction of NDOT. These are the conditions given by NDOT. Mr. Lloyd also wanted to add a new condition: At the intersection of Butch Cassidy and Edmonton Drive, there were some questions as to whether or not the County was requiring a four-way stop. The County, through this condition and in compliance with the recommendation of the traffic study, will not allow for a four-way stop but will continue the left-turn lane from Edmonton onto Butch Cassidy Drive to allow for the free flow of traffic. NDOT made it very clear that they need to see the results of the additional study before they determine the appropriate mitigation for the left turn out from Edmonton onto Mount Rose Highway. He also reminded the Planning Commission that one of the requests that came in addition to this tentative map subdivision was to modify the side-yard setback. The current side-yard setback for an NC zone is fifteen feet; the applicants asked to modify that to five feet. The Planning Commission could approve as proposed, approve with modifications, or deny the application. Staff recommended approval as proposed.

Mr. Webb added that the motion should be modified a little bit because staff was proposing a modified condition and a new condition. If the Planning Commission chose to make a motion along these lines, then they should consider the new condition and the modified traffic condition.

Chair Barnes called for an applicant presentation.

John Krmpotic with KLS Planning represented the applicant, who is Towne Homes from Sacramento. Jeremy Goulart, one of the executives with Towne, was also present. Mr. Solaegui, their traffic engineer, and civil engineer Jason Gilles were present. Mr. Krmpotic felt that they received an assignment at the last meeting to study five topics: traffic, design density and setbacks, schools, fire wildland urban interface, and the Mount Rose Scenic Corridor. In terms of traffic, they are in agreement with the two conditions mentioned by Mr. Lloyd - 6a for the deceleration lane if warranted upon study and accepted by NDOT and Condition 1aa, which offers clarity on the four-way stop. It would be an impediment to the general traffic, and it is not warranted. They accepted the amendment letter contained in the staff report, done by Jae Pullen at NDOT. Whether they want a four-way stop or a traffic light or a deceleration lane or high T intersection, they are all in the cards. Their expert, Mr. Solaegui, will study this for the direction of the NDOT traffic engineer. They will accept the condition for intersection modifications at the highway and Edmonton and/or the deceleration lane, which was put in the

record on 6a. They cannot get ahead of themselves on trying to fix it until it deserves the legitimate attention of the expert study. They offered to meet with Galena administration, the principal or whomever to talk about trying to influence the students who drive down the highway and go further down De Spain. They had a big cut through on Edmonton so there is a very good faith effort on behalf of their team to work with that issue and split that traffic. Number two is design density and setbacks. The underlying density granted to the property of which these gentlemen purchased or put in contract was premised on five dwellings to the acre if they do a single-family project. He suggested that if single family was done in the NC zone, then you would look at the corresponding setbacks for the closest related single-family zone. MDS 4 is four dwellings to the acre and allows a seven-foot side yard. HDS is five to the acre and allows a five-foot side yard setback. He suggested that it is responsible and appropriate, if doing single-family density allowed in the NC zone, there is a relationship between setbacks and that density. That is why they are asking for the five-foot setback. Not every lot will have five-foot side yards, but it gives the developer some flexibility. He mentioned the relationship of the footprint of a house. If there is a default template 60-foot wide, consistent with something in between the MDS and the HDS, then it makes sense that with a 60-foot wide lot, you would have a 40 or a 50-foot wide house, but not a 30-foot wide house. The product would look weird. These gentlemen are also looking at providing a housing product that does not exist out there. Mr. Krmpotic believes it would be mere speculation to think that they are going to cheapen the neighborhood or not do a very good job creating a beautiful neighborhood with 7,000 square foot lots on average that happen to have a minimum of five-foot side yard setback. He suggested a \$400,000 house and not an \$800,000 house on the lot up the highway, because we cannot all live in \$800,000 houses. He called this a market issue, a developer issue, and an entrepreneurial issue, not a zoning issue. The buyers would know what they are getting into when electing to buy a house. They will see it on their plot plan and in the model home complex, the relationship from one house to another. He has seen a huge misconception in his career, which is that builders put more density and make more money. They make their money on sales velocity by finding something that hits the market and selling houses at a very successful rate. That is where they would be successful in this project. He suggested that the relationship between lot size, house footprint, lot, and house price is a complex physical planning issue. He addressed schools. For this project, the middle school and the high school have sufficient capacity. Hunsberger, for which they are zoned, is at 103 percent today. The project, if built out based on the standards that the School District projects, says it kicks it up to 104.6. It is a two-percent increase. There is a solution. Their letter says that if a school has enough classrooms to do multitrack, which Hunsberger does, and you get to 120 percent capacity, then they will go to multitrack the next year. Mr. Krmpotic agrees with the School District that there is a much larger issue than any project. There is an effort with a different group trying to get school funding, and that is really the source to deal with school capacity on a much larger level than what they can deal with in terms of mitigating project impacts and what the project impacts would create. Regarding fire and wildland interface, they do meet the code. They have the condition from the Fire Marshall, which is five conditions in one, a through e on Condition 7. They accept the condition and exceed. The most important thing that came up in discussion last time was the setback, what they are calling wildland, which is private property to the west that could be developed someday. It is a 50-foot setback to meet the code. They have proposed 55 feet. They have 55 feet from their envelope; the closest part to that wildland would be 55 feet. The next one is the Mount Rose Scenic Corridor. They do exceed the corridor requirements. One standard allows for a 35-foot height allowance adjacent to the corridor. Staff imposed a condition of one-story for all of the houses along the corridor; they accept that condition. Those will be more like 20 or 22 feet. One-story production homes are not 35-foot tall. What they have accepted and what they have offered is greater than what is required by the scenic corridor. The berm is not a requirement, nor are the trees. They also have the native plants, with additional setback between that native plant area. Really it is in the excess right-of-way area of NDOT. Edmonton Street's gate is important, because of what they are doing with

that street scape area in the common area behind the back of the lots with 3-to-1 slope, the top rock, the shrubs, and the trees. It will be a beautiful presentation from the street. They also have a variation on the houses – tricking the eye with good design. He noted the Vancouver lot line; they are putting in a new fence and gates and trees for screening of headlights, in addition to the shrubs that are in that little excess area they have in the right-of-way.

Jeremy Goulart with Homes by Towne introduced their 70-year-old privately-held, homebuilding residential, commercial and industrial company based in Milwaukee, Wisconsin. They have been involved in real estate, commercial, residential, and industrial in Reno and Northern Nevada for over 30 years. When initially looking at this property, they looked at both commercial and residential options. The commercial option would have been the path of least resistance and is allowed by right. However, they felt that single-family residential use was more appropriate in this location. It is the highest and best use in their opinion. They have in every way, shape, or form tried to work and accommodate the community as much as possible, evidenced by their voluntary continuation of their project before bringing it to the Planning Commission. They voluntarily held a second community meeting. They had the community advisory board for the area make a unanimous recommendation for approval of the project.

Chair Barnes opened public comment.

Michael O'Brien lives at 3800 Vancouver Drive in the Rolling Hills subdivision. He did not object to the major idea of the development. He does not see it materially affecting his home. The problem he sees is the traffic arrangements. He presented four pictures for the Planning Commission's consideration. He showed the traffic at 7:45 on a Thursday morning; the line of traffic was made up of student cars all making the left-turn onto Butch Cassidy. He showed a truck on the highway in what would be the deceleration lane getting ready to turn. According to the school website, there are approximately 1,400 students at Galena High School. He showed two photos of the student parking area. There is a parking area in back for about 100 staff members. The traffic patterns that were done for the study according to the report as of April fifth were done in December and January, which is when the school is closed. The proposed right-in, right-out pork chop would impose difficulties for the people who live in the neighborhood. He provided two copies of the photographs to the secretary for the records.

Pam Campanaro lives at 3790 Vancouver Drive, Reno, Nevada. She has lived in the Rolling Hills subdivision for 18 years. She cofounded the neighborhood watch program in Rolling Hills. She is a founding member of the Protect Mount Rose Highway group, as well as a board member at Galena High School PTO in Boosters. One of her main concerns is the traffic. She has a daughter, who she takes to the high school every morning, so she does see the traffic. She showed some photos that she took in the morning on February 18, 2016. From the time that she approached 100 yards to the stop sign at Butch Cassidy and Edmonton, she waited eight minutes to cross over to Edmonton to get back home. She left a copy of the set of photos for the Planning Commission's review. They have 350 homeowners in Rolling Hills, and a lot of people have contacted her because they are concerned about the project as it is right now. Everybody is not necessarily opposed to it. She is primarily hearing about the traffic. They started a petition on Saturday, because they had so many people contacting and asking how they could bring their point if they could not speak. They have over 100 signatures of people who have concerns. She has talked to Tom Brown, who is the principal at Galena High School, in detail about De Spain Lane. He is willing to discuss it, but there is a flow of traffic that the way people are coming in Edmonton, and it is not so simple as to ask people to go down De Spain Lane. She is quite certain that Mr. Brown would work with this in any way necessary.

John Murphy lives at 4560 Great Falls Loop in the Rolling Hills subdivision. He has lived there for over 14 years. He is opposed to the current development with the current density. The

proposed density is completely inconsistent with and much denser than the surrounding areas up and down the Mount Rose Corridor. He is the father of a recent graduate of Galena High and has a daughter who is still a student there. He is well versed in the heavy traffic that occurs there. He added that these are students driving. It is very sketchy at times. With respect to the gentleman's comment on De Spain Lane, he agrees. De Spain Lane comes in to Butch Cassidy where the traffic is coming up from a westerly direction. He said that you would get a "T" of traffic there. It is not a roadway that flows freely into the school. It is going to merge up against traffic coming up Butch Cassidy from the other direction. He does not know that it is a viable workaround. With respect to school capacity, he did not know if the items being discussed took into account all of the high density housing going in around Wedge Parkway and Arrowcreek Parkway. There is a tremendous amount of high density apartments and another subdivision that are either already built or are being built now. With respect to over-capacity, he does not know if it takes into account that all of those students have to go to school somewhere. With respect to emergency exit, the folks at Rolling Hills have one way in and out of their subdivision, and it is through Edmonton. They had a fire a few years ago, and there is one way out of there in an emergency situation, such as a fire, plane crash, earthquake, or explosion at the Ormat Plant on the hill. Adding another 100 houses to that traffic flow could cost lives.

Paul Schneider lives in Rolling Hills at 4630 Edmonton Drive. He is concerned that the current Mount Rose Highway-Edmonton intersection is inadequate to handle future traffic volumes. There are major traffic safety concerns. NDOT and the County are not requiring roadway and traffic pattern reconfigurations to be agreed upon and funded prior to approving the developer's application. NDOT believes that more study is required, and Mr. Schneider fully agrees with that. The developer said they will accept whatever the outcome of the future study is. Mr. Schneider suggested that the outcome of the future study could require a right-in, right-out at Edmonton, and all that traffic from Edmonton leaving their subdivision would have to travel down Butch Cassidy and go to the Wedge Parkway-Mount Rose Highway intersection. That signalized intersection might not be able to handle the additional traffic volume, which could require dual left-turn lanes from Butch Cassidy to go up Mount Rose Highway. If that is necessary, that is really expensive. He questioned if the developer would really be willing to put a million dollars into an intersection to provide adequate and efficient safety for that movement. If the intersection at Wedge Parkway-Mount Rose cannot be reconfigured appropriately, then he suggested that the next best alternative would be to extend Butch Cassidy up to the currently-existing Thomas Creek Parkway signalized intersection. He asked if the developer would really be willing to pay that. It is easy to say we will pay for a pork chop, right-in, right-out island, but that has some serious implications on those other intersections to which traffic would be diverted. He requested that the Washoe County Planning Commission not approve the permit for the developer yet, require the traffic analysis to be revised to include analysis of the Mount Rose-Wedge Parkway intersection, if no left-turns can be accommodated at the Edmonton-Mount Rose intersection, and perform a similar analysis of the Butch Cassidy-Thomas Creek intersection. He requested that future approval of the developer's permit be contingent upon NDOT approval and funding of required infrastructure improvements to allow efficient and safe access from their subdivision. If they cannot afford to make it safe and efficient, then he believes they cannot afford the new subdivision.

Diana Langs has lived south of town since 1978. She believes that we need to take a step backwards. She feels that the scenic corridor is already a mess with the traffic. She would not consider it a scenic corridor with all of that traffic jam from schools. She believes that we need to start correcting what is wrong before adding more. The tourism Reno-Sparks Convention Authority wants to promote Mount Rose Scenic Byway Corridor as a scenic corridor. Ms. Langs believes that it is already too late, there is too much congestion, and a lot of the views have been lost. She does not understand on what they will develop a byway logo and brand. There are cars going to the high school. There are not pedestrian crossings for people to pull over

and stop. She feels that this is our last chance to save the scenic corridor and that we need to correct what is wrong before we move forward. She said, "This is for our children, not for us. Think of the future. It is the gem to Lake Tahoe."

Chair Barnes asked for Commission questions.

Commissioner Prough asked Fire Marshall Amy Ray if the current fire equipment would be overtaxed with 94 new homes. He asked if the equipment could handle it or if new facilities would have to be built and new engines brought in to accommodate.

Ms. Ray answered that they have not done a study or an evaluation of that. They are going to be doing a standards of cover study in the near future. It was discussed at their strategic planning meeting, but it is not something that they have discussed or looked at as an issue.

Commissioner Prough asked if the current fire equipment and the fire house are adequate for what is there now or if they are at max for what is there now.

Ms. Ray replied that it seems to be adequate for what is there now. They have not addressed whether it is at maximum or not. She has not seen any studies stating that they are at maximum capacity or that they cannot provide service to that area. There are some areas that they will define and they will comment as being at max capacity should they determine that it would be difficult and taxing on their resources to have additional structures and additional persons within the area. But that is not one of the areas where they have addressed that concern.

Given the street designs that they had been discussing, Commissioner Prough suggested imagining an emergency. With the increase of traffic flow, he asked if Ms. Ray anticipates additional difficulty for emergency equipment to get into that area.

Ms. Ray answered that with the current way it is going, there is always a possibility of that happening. It will depend on time of day and the actual emergency. It is kind of a fluid motion to be able to answer specifically and accurately. They can only require that our streets are built to codes and standards. Requesting them to be larger than that is not something that they have the ability to do.

Commissioner Prough referred to Ms. Ray's comment that there were no plans to study this. He asked if there will be, given what is coming up now, time to evaluate the fire services and the emergency services there before the completion of the project.

Ms. Ray said that it could possibly be looked at with their standards of cover survey. She stated that there are developments that have come in, and she has gone into the chief and said this is our number of calls in the area, this is what is going to happen, and has asked if they should look at increases. They have identified specific areas. This was not something they discussed as being a specific area where they anticipated having an increase over the capacity for their call volume.

Commissioner Edwards mentioned the one in-and-out-road. He asked how a 20-foot wide fire truck would impact the neighbors and how it would impact their access the very last building that might be lit off by a grass fire in that neighborhood. He asked if a noncombustible wall on the western flank, even though there is a fifty-foot setback, would make Ms. Ray's life easier. He mentioned that wildland fires seem to occur in the area every other year.

Ms. Ray said that they have discussed the need to look at the addition of secondary access to that property with the developer. This is a tentative map, and they have the ability to come to fire with a proposal to meet those requirements. A noncombustible fence is always something they would prefer, because it stops the progression of fire. The other thing to consider is that a lot of their fires are moved by the way of embers, and that is not going to decrease that. But being in the high-fire zone because of the construction elements that are required in that area, they would have an extra level in that area for exterior construction elements eaves, exterior siding, and vegetation management. She has also required that she review and approve what is required for landscaping, what is required for HOA requirements on maintenance of vegetation, and a vegetation management plan for them to address the concerns.

Commissioner Edwards asked if that included tile or metal roofs.

Ms. Ray affirmed that it includes Class A roofing for the high-fire risk areas.

Vice Chair Chvilicek asked if this geographic site is within the mutual aid agreement.

Ms. Ray could not recall if the area is within the mutual aid agreement.

Commissioner Chesney addressed Mr. Krmpotic regarding the major concerns about traffic. He asked what the traffic engineer is telling them.

Traffic engineer Paul Solaegui prepared the traffic report. Mr. Solaegui stated that there are congestion issues, which is not uncommon in the areas of high schools. With high schools, such as the 1,400 students at Galena High School, those students arrive in a brief period prior to the start of school in the morning. With that concentration of traffic, you experience temporary periods of congestion. This morning peaking is typical of other high schools in the County. The afternoon peak is not as serious because the students get out at 2:00 or 3:00, and the evening peak hour does not occur until 5:00. But it all aligns in the morning; the commuters are going to work and the students are coming to school. When they started the traffic study, they sought input from Washoe County and NDOT staff. They asked what needed to be included in the traffic study. They received a list of intersections. They extended down to the intersection at Wedge Parkway. They studied the intersections on Edmonton. There are rules about how the studies are done in terms of how they predict the traffic. They look out 20 years into the future to try to predict long-term impacts of the area also. They look at all of the known growth. As they do the traffic study, they go out and do counts. Their traffic counts done in December and January were done on school days, because they knew they had to capture that school traffic to really analyze what was going on. Then they analyzed the intersections and prepared and offered the study. They show how the intersections operate. They have support from NDOT with conditions, and they have support with the Washoe County conditions. Mr. Solaegui views the study he prepared as being approved with conditions by multiple traffic engineering agencies. They understand that it does not overcome all of the struggles of the high school students. Especially on a snowy day, they cannot overdesign our roads to accommodate every situation, including very worst. It would be too expensive. But they have a responsible study on the table that he feels meets the County policies and guidelines.

Vice Chair Chvilicek addressed staff. She mentioned the 15-foot setbacks and the applicant's request for five-foot setbacks. She asked where the 15-foot setback originated.

Mr. Lloyd replied that it is a standard setback requirement, identified in Article 406 of the Washoe County Development Code. All of the regulatory zones have a specific setback standard. That is the default for the NC zone.

Vice Chair Chvilicek asked how the setbacks were defined in the Forest Area Plan.

Mr. Lloyd answered that it defers back to the Development Code in terms of development for setbacks.

Vice Chair Chvilicek asked for confirmation that the property is concurrently zoned as Neighborhood Commercial. But homes are being proposed. She asked if High Density Suburban or Medium Density Suburban would be the equivalent.

Mr. Lloyd confirmed the current zoning. Based on the lot sizes, he said that High Density Suburban would be the most equivalent zoning.

Vice Chair Chvilicek said that it was seven units per acre detached, nine acres attached. She stated for the record that the Area Plan trumps everything else. In terms of the character statement, it is characterized as suburban with a rural complexion. There is a paragraph that says the transition from large ranches and open space in the Forest Area Plan to residential development has resulted in a suburban development pattern with a rural texture. In the suburban character areas, the remaining undeveloped land and the planning area can make a significant contribution to the implementation of the County's Master Plan, including the land use and transportation element. Unfortunately, some past development practices have not been entirely supportive of the character described here. Therefore this plan will make extra efforts to ensure that future development plans be conducted and implemented in a manner that supports and enhances the community character. Vice Chair Chvilicek asked Mr. Lloyd to speak to that in terms of how this proposal, this tentative map, fits within that character statement.

Mr. Lloyd said that as you read through the character statement, the intent is to enhance or to preserve areas that are designated as rural and transition from suburban into more rural flavor. What the applicant is proposing is consistent with a suburban land use and a suburban pattern of development. It does not encroach into the urban densities as defined in Article 406. Even though it is higher density than the surrounding neighbors, it shares a suburban characteristic.

Vice Chair Chvilicek spoke of the character statement which speaks to dark skies, speaks to the openness of the area, retaining view shed of the scenic areas, addresses fire and mitigation and all of those. She mentioned providing a range of housing opportunities, which this will certainly do, and conservation of scenic and cultural resources. The area in terms of the plan also addresses mixed use areas that are specifically designed to promote neighborhood as a component of the area's character and serve to balance the predominantly large-lot single family and then moving more into that suburban. What troubled her most were the setbacks of this lot and the concentration of the density of these homes. This is a very concentrated development with houses literally side by side and some with only ten feet between them. Her first impression is that, as proposed, it is not in compliance with the area plan.

Commissioner Edwards said that the entrance ways to the apartment buildings right across the highway have a ten-foot opening and are attached together. That is what this development would look like. He believes the faces of those buildings would look like they are all part of one building. He applauded the idea of varying the two-story, single-story. You cannot even plant a tree in that kind of space, because you have to have access for fire and so forth. He mentioned the phrase about clustering within the interior and the side common space on the outside. He felt that they barely touched on the clustering. For this project there are only about 10 or 15 lots on the outside that are not clustered right together...not the rest of the 92. Rolling Hills was a County development. He wondered why there was only one way in and out of it.

Mr. Lloyd replied that there is an emergency access, but the primary access is one way in and one way out. He could not speak to the details of that development as it is coming on 20 plus years.

Commissioner Edwards was concerned that the clustering would make the homes nearly roof eave to roof eave at ten feet apart. He is against that. He could say maybe ten feet, but certainly not five.

Commissioner Horan mentioned one of the comments in one of the emails, suggesting that the houses in the immediate area generally have eight-foot setbacks. He asked if that was true.

Mr. Lloyd said that is consistent with the surrounding neighbors. They have eight-foot side yard setbacks.

Commissioner Daly said that the night's presentation was materially different from what they heard on April fifteenth, what he heard on March fourteenth, and what he read in the additional application. He thought that what they heard was an improvement. He said that he was taking a fresh look at this, objectively, dispassionately, because he had new information: new conditions, changed conditions, a new traffic study, an NDOT review of the new traffic study, a potential Truckee Meadows Fire standard of cover study, which evaluates their capabilities to respond to growth. Most of this he had received within the last hour. He said that he was not prepared to vote one way or the other, because the amount of information they had received that evening, he could not evaluate in 60 minutes. He said that he would like time to study this, not forever, but some more time. He apologized for not getting the memo until an hour ago.

Mr. Webb reminded the Commission that this was the time for asking questions and that the discussion should be saved until after the public comment was closed.

Vice Chair Chvilcek spoke to Mr. Lloyd about the staff report in terms of the Forest Area policies. There is no reference to F.2.7, which whenever feasible new homes, commercial buildings, and public facilities should be located in a manner that facilitates the immediate use or future conversion to renewable energy technologies. Nor was F.2.9 addressed, which is prior to the incorporation into development code, the standards established will be implemented through tentative map condition improvement plan CC&R's. She asked if there will be CC&R's on this property or if that will be addressed through tentative map. She asked how the renewable energy technologies are being addressed in this development.

Mr. Lloyd apologized if the policy was left out; it was an oversight. This development will require the creation of CC&R's, as well as an HOA to provide oversight, regulation of, and enforcement of those CC&R's. They would be asked to include a component of renewable resource. It has been represented by the applicant throughout the process that they use very efficient materials. With their past practices, they place a high priority on the use of renewables.

Vice Chair Chvilcek brought up the issue of schools. She asked if the County or the School District makes a comparison and overlays all proposed developments in that area and the potential impact on schools or if they do it development by development.

Mr. Lloyd answered that they ideally have the opportunity to do that when they are developing the Master Plans and the Area Plans and when they are looking much more regionally. With development, it is very reactionary, which is a design of state law. The school districts must to accommodate development and growth. There is very little opportunity at the development stage. The opportunity comes earlier on in the development of the Master Plan.

Vice Chair Chvilicek asked for clarification that they do not do an overlay of all of the proposed developments and potential impacts.

Mr. Webb offered a reminder of the School District's presentation the previous month. They spoke about school needs. Having sat on one school rezoning committee and also working with the School District on providing the information that Vice Chair Chvilicek mentioned, Mr. Webb said that they do consider those for the unincorporated County, Reno, and Sparks in the concerns of what is developed, what is the approved unbuild, and what the proposed Master Plan designations or uses allow. They include those. That is how they came up with the numbers saying we need this many schools in this many areas. They do it district wide.

Vice Chair Chvilicek said that the impact demonstrated to them was specific to this development in terms of how many possible students could be generated. There are several more developments that are proposed in that area that would have significant impact. All three of these schools are zoned for that same area of that corridor. That is a significant concern.

Chair Barnes called for any additional Commission questions for Mr. Lloyd.

Commissioner Horan mentioned a statement on Page 4 of the planning report agenda'd for later in the meeting: "The County was successful in utilizing federal grant money to develop scenic byway corridor management plans for both the Mount Rose Highway and Washoe Valley." He asked how these management plans relate to this development.

Mr. Lloyd said that these management plans are not a set of policies; they are a set of guidelines used as recommendations. They are a very useful tool when developing the general pattern and development of the Master Plan and the Area Plans. One of the recommendations within the Mount Rose Corridor management plan is a deceleration lane at Edmonton. Other recommendations request limiting traffic on Mount Rose Highway. They are all recommendations that can be used specifically when amending a certain Area Plan, amending the land use or the regulatory zone. The recommendations can be used when drafting conditions. That has been done with the amendment that Mr. Lloyd discussed previously.

Commissioner Horan asked if there was anything in there that would be inconsistent with the broad recommendations that are part of the plan.

Mr. Lloyd answered that he found nothing.

Vice Chair Chvilicek mentioned Page 3 of the Area Plan: mixed use developments must be carefully managed in order to ensure that it promotes and enhances the overall desired community character described and that particular attention to visual impact, impact on traffic safety, and the careful consideration of architectural site development standards important to ensuring that the uses are of quality to the area. She asked Mr. Lloyd if that was specifically addressed. She said that it is under the character statement.

Mr. Lloyd said that it has been addressed broadly in terms of an overall review of the whole plan. He mentioned the number of conditions added. Some have to do with design. Some have to do with the location of two-story houses. They are also proposing a condition that the applicant must go through the design review process and get approval from the Design Review Committee.

Chair Barnes closed the public hearing and called for Commission discussion.

Commissioner Prough asked Vice Chair Chvilicek what she sees that is inconsistent with the Master Plan.

Vice Chair Chvilicek thinks that overall it does not embrace the character statement of the Area Plan. The Area Plan addresses mixed use, and mixed use is important to any kind of development. The setback in the Area Plan is fifteen feet, and this is asking for a reduction to five feet. There are other issues of renewable resources and the issue about the impact on traffic safety, which she thinks has been addressed with NDOT, requiring those other things. And they have heard from fire that as this moves through, there might need to be some modifications for access and emergency access.

Commissioner Edwards said that his only problem with the whole project is the setback. He would not be able to approve anything less than a ten-foot setback from the fence lines. They spent a lot of time developing an Area Plan. If they are going to ruin the character of the Area Plan by stacking houses right next to each other to make them all look like an apartment building, then they are not keeping in line with the character of the area that they set out for themselves. He has no other problems with the project. He could not accept item w. on Page 7 of 16 of the conditions. He could accept ten feet, but he cannot accept five.

Commissioner Horan could support the application with eight-foot setbacks, as opposed to ten, because that seems to be consistent with the rest of the area. He could also accept the condition about working with NDOT to make the appropriate changes as it is studied, whether that requires a bond from the builder or whatever to do that. He substitute teaches and knows that we have overcrowded schools. He is not sure that it is up to us to change all of that. He thinks that we have to rely on the experts in the other parts of the County as far as fire, health, and those things; they come back with conditions. With the change of condition on NDOT and changing the setbacks to eight feet instead of five, he could support the application.

Vice Chair Chvilicek agreed in that they had heard from a couple of people within the community who would support an eight-foot setback, so she thinks it is appropriate.

Commissioner Prough asked if it was within their purview to be able to change these items.

Chair Barnes responded that it is within their purview.

Chair Barnes called for additional discussion. There was none. He called for a motion.

Mr. Krmptic provided an offer for the Commission. He said that they could go to an eight-foot side yard, with five on the other, to make the product work. They would alternate them, so there would be 13 feet as a minimum. They would not line up a five and a five. An eight would go with a five. He added that these are internal side yards, and they could maintain good integrity of the neighborhood.

Commissioner Daly said that he would like to see the changes, including the changes to the exhibits, and he would like to hear from NDOT as a result of their study. He wanted to know if they would require changes and mandatory conditions or not. If they are not, then the Planning Commission may.

Chair Barnes mentioned that they had closed the public hearing and asked DDA Edwards if they could hear from NDOT at this point.

DDA Edwards left the matter to Chair Barnes' discretion.

Commissioner Horan stated that they had closed the public hearing and had their discussions. He felt that it was up to the Planning Commission to put the conditions that they see fit on the application. He said that they could agree or disagree on those recommendations.

Commissioner Chesney stated that this is a tentative map case. He said that they were far in the weeds in detail. The project has many hurdles to pass in the future before it comes to fruition. He felt that they were beating a dead horse.

Commissioner Prough asked if he could make a motion. He moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission approve Tentative Subdivision Map Case Number TM16-001 for Colina Rosa with the conditions of approval included as Exhibit A in the staff report for this item, having made all ten findings in accordance with Washoe County Section 110.608.25, and conditioning that on Page 7, Point 8w, the side yard setbacks throughout the subdivision shall be reduced from 15 to 8 feet, and accepting the 8 foot, 5 foot proposal by the developer to be included in this. It meets Number 1 (Plan Consistency), Number 2 (Design or Improvement) based upon this condition, Type of Development that the site is physically suited for the type of proposal...Yes to 4, yes to 5, yes to 6, yes to 7, yes to 8, yes to 9, and yes to 10.

Commissioner Chesney seconded the motion.

Commissioner Horan asked if this included the NDOT agreement to provide the appropriate changes if so deemed by NDOT.

Mr. Webb answered that staff proposed two conditions. One was amending Condition 6a, which is what Commission Horan mentioned with the NDOT addition. The other was a new Condition 1aa. He believed that Commissioner Horan was asking if the motion included those two conditions as proposed by staff.

Commissioner Prough agreed that it was included.

Chair Barnes called for discussion on the motion.

DDA Edwards asked the seconder of the motion if he agreed that he seconded those two additional conditions.

Commissioner Chesney agreed.

Commissioner Horan commented that he could not go with the eight and five. He wanted the eight, period.

Chair Barnes called for a vote. The motion failed with a vote of five against (Commissioners Edwards, Daly, Chyllicek, Horan and Barnes) and two for (Commissioners Prough and Chesney).

Vice Chair Chyllicek moved that after giving reasoned consideration to the information contained in the staff report and the information received during the public hearing, that the Planning Commission approve Tentative Subdivision Map Case Number TM16-001 for Colina Rosa with the conditions of approval included in Exhibit A in the staff report, and including all amendments as staff reported and amending Condition w to setbacks at eight feet.

Mr. Webb clarified with Vice Chair Chvilcek that her motion included all ten findings in accordance with Washoe County Section 110.608.25:

- 1) Plan Consistency. That the proposed map is consistent with the Master Plan and any specific plan;
- 2) Design or Improvement. That the design or improvement of the proposed subdivision is consistent with the Master Plan and any specific plan;
- 3) Type of Development. That the site is physically suited for the type of development proposed;
- 4) Availability of Services. That the subdivision will meet the requirements of Article 702, Adequate Public Facilities Management System;
- 5) Fish or Wildlife. That neither the design of the subdivision nor any proposed improvements is likely to cause substantial environmental damage, or substantial and avoidable injury to any endangered plant, wildlife or their habitat;
- 6) Public Health. That the design of the subdivision or type of improvement is not likely to cause significant public health problems;
- 7) Easements. That the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision;
- 8) Access. That the design of the subdivision provides any necessary access to surrounding, adjacent lands and provides appropriate secondary access for emergency vehicles;
- 9) Dedications. That any land or improvements to be dedicated to the County is consistent with the Master Plan; and
- 10) Energy. That the design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

Commissioner Edwards seconded the motion.

Chair Barnes called for discussion on the motion. There was none. The motion passed with a vote of five for (Commissioners Edwards, Chvilcek, Chesney, Horan and Barnes) and two against (Commissioners Prough and Daly).

B. Abandonment Case Number AB15-005 (MK III Holdings, LLC) – Hearing, discussion, and possible action to abandon a portion of a Washoe County public right of way totaling approximately 15,472 square feet adjacent to two adjoining properties (APN: 044-320-51 and 52) owned by MK III Holdings, LLC, to allow for a reduction in the radius of the westbound right turn lane from Arrowcreek Parkway onto Zolezzi Lane to lower travel speeds entering a residential neighborhood.

- Applicant/Owner: MK III Holdings, LLC
Attn.: Kent Witt
PO Box 6142
Reno, NV 89513
- Location: Westbound right turn lane from Arrowcreek Parkway onto Zolezzi Lane
- Assessor's Parcel Numbers: 044-320-51 and 52
- Project Area Size: 15,472 square-feet

- Master Plan Categories: Commercial (C) and Suburban Residential (SR)
- Regulatory Zone: General Commercial (GC) and Medium Density Suburban (MDS)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 806, Vacations and Abandonments of Easements or Streets
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 17, T18N, R20E, MDM, Washoe County, NV
- Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

Chair Barnes mentioned that Commissioner Daly was leaving.

Mr. Webb stated for the record that Commissioner Daly was no longer present. Six Commissioners remained. Mr. Webb provided a brief description of the item.

Mr. Lloyd presented his staff report, dated April 12, 2016.

Chair Barnes called for ethics and ex-parte disclosures. There were none.

Ken Krater represented the owner and the applicant. He pointed out that Arrowcreek Parkway currently has a free flowing right turn, and cars are turning onto Zolezzi Lane. Zolezzi Lane is a collector street. The Regional Transportation Commission has different designations for arterial and collector streets. Zolezzi Lane is considered a low-volume control street, which means that access is just as important as capacity. Zolezzi Lane used to continue easterly and intersect South Virginia Street. At that time Zolezzi Lane was a rural road. There are still numerous houses up the street from this free flowing right turn lane that have driveways where cars back out onto Zolezzi Lane. There is a private school about a thousand feet up from the street. By slowing traffic down a little bit with minimal inconvenience, which he thinks was agreed upon by the four various groups with which they met, it should improve traffic safety on Zolezzi Lane. The current property owner, when the Regional Transportation Commission built Arrowcreek Parkway and Wedge Parkway, totally changed the configuration of access to the storage facility. They used to have simple full access off Zolezzi Lane. Now their access is beyond and almost immediately after the free flowing right turn lane. If someone pulls into that driveway pulling a boat or a trailer, and there is another vehicle behind him, then there is the potential for a rear-end accident. It violates driver expectation to have a driveway that close to a free flowing right-hand turn lane. As another violation of driver expectation, if you come down Wedge Parkway towards Arrowcreek Parkway in order to make a left turn to go back up the hill onto Zolezzi Lane, then you would normally have free flow from there on. But there is a yield sign. Cars making the left turn are required by the yield sign to yield to right turning traffic. That is not the normal expectation. If the abandonment is approved and plans are approved, then the new design will bring back a normal pattern, where the left turn no longer yields to right turning traffic. They will build a merge and acceleration lane, so cars that now make that smaller right hand turn lane do have a chance to accelerate and merge into the through travel lanes. He expects that the inconvenience on the travelling public will be so small as to be negligible. They will still have the free flowing right turn lane. It will not back up traffic. It will provide for a much safer intersection. The American Association of State Highway and Transportation Officials and

the Institute of Transportation Engineers recommend that you build this intersection the way they are proposing. He is not sure why they built the free sweeping right-hand turn lane, other than the right of way was available, and it was easy; it is not the best design. This will be a good design. It will function well, provide adequate capacity, and make a much safer route for the traveling public. Eventually there will be more growth and development in this area, both the land that is owned by MK III and development at the Zolezzi, the Arrowcreek, the Wedge Parkway corridor. This is something that will improve traffic safety without inconveniencing the public. One hundred percent of the cost will be paid by the owner of the property. There will be no cost to the County.

Chair Barnes called for public comment. There was none.

Mr. Webb announced the arrival of Dwayne Smith, the Engineering and Capital Projects division head. Mr. Smith was at the meetings and was available, in case anyone had questions for him.

Chair Barnes invited Commission questions for Mr. Smith.

Commissioner Edwards asked for an explanation of the map. He asked if they were talking about the abandonment of three lots or if those lots are owned by MK III. He was not able to identify the County property.

Mr. Smith answered that the three lots are owned by MK III. He pointed out the portion under discussion for abandonment. Mr. Smith's division has reviewed the proposal, and they do agree with the abandonment of a portion of the Washoe County right-of-way. MK III will be responsible to realign that roadway section and construct at their cost. The County's part of the process is giving up that portion of right-of-way to MK III, which they originally received from them to begin with. There is no net change to Washoe County. Through this process, they actually anticipate a safer right-hand turn onto Zolezzi.

Chair Barnes called for Commission questions. There were none. He closed the public hearing and called for Commission discussion.

Commissioner Horan said that he can see why the applicant wants the land. He suggested that we sell them the land. He is familiar with the intersection. He went out and looked at the intersection. It appeared to him that the free flowing works pretty well as it exists. He looked further up Zolezzi and did not see a lot of activity there with people backing out into the immediate vicinity. He did not understand why it should be done.

Commissioner Edwards did not object to the project. He remembers when Zolezzi was moved over there and the whole thing was to make a clear straight "T" so that traffic coming down Zolezzi would have a straight 90 where they could see traffic from both directions. He does not see us gaining anything, but he was not necessarily opposed to it.

Chair Barnes called for a motion.

Vice Chair Chvilicek moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission approve Abandonment Case Number AB15-005 with the conditions of approval included as Exhibit A in the staff report for this matter for MK III Holdings, LLC, having made all three findings in accordance with Washoe County Code Section 110.806.20:

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

Commissioner Edwards seconded the motion.

Chair Barnes called for discussion.

Commissioner Horan stated that he was going to vote no, based on his previous comments.

The motion passed with a vote of five for (Commissioners Barnes, Chvilicek, Chesney, Edwards and Prough) and one against (Commissioner Horan).

9. Planning Items

A. Review and possible action to authorize transmittal of the 2015 Washoe County Regional Plan Annual Report, as amended to incorporate Planning Commission comments, to the Truckee Meadows Regional Planning Commission and the Truckee Meadows Regional Planning Governing Board on behalf of the Washoe County Planning Commission (per NRS 278.0286), including any action taken within the previous calendar year which furthers or assists in carrying out the policies or programs contained in the comprehensive regional plan, and any work relating to the comprehensive regional plan that is proposed for the next fiscal year. The report will track the format of the comprehensive regional plan by addressing information relevant to major components of that plan, including (1) Regional Form and Pattern: regional form, cooperative plans and planning, and affordable housing; (2) Natural Resource Management: coordination of natural resources management, development constraints areas, open space & greenway plans, and the regional water management plan; (3) Public Services and Facilities: regional transportation plan, wastewater services & facilities, annexations, and local government/affected entities facilities plans; (4) General Review of the 2012 Truckee Meadows Comprehensive Regional Plan; 2017 regional plan update; and (5) Planned Policies or Projects in 2016 that will further or assist in carrying out the regional plan.

Mr. Webb presented the staff report, dated April 25, 2016, and the 2015 Washoe County Regional Plan Annual Report on behalf of Bill Whitney.

Chair Barnes called for public comment. There was no public comment.

Chair Barnes called for Commission questions.

Commissioner Horan referenced a statement on Page 3: "The County continued the work on a multi-year project to construct bikeways in the Incline Village/Crystal Bay areas." He said that this has been a very slow process.

Mr. Webb said that they are going to start work this year on the first steps for modifying the proposed parking area, which would be by the old Ponderosa Ranch parking area. They are going to turn one section of that highway segment into parking, and the other side will not be parking anymore. It is part of the bike pathway. Next year they are going to start construction

from that area, which is where the café is right now, and start on the high side and drop down under the highway and then continue on the lake side, which is about where Tunnel Creek Road comes through. There were some funding issues, which is why they cannot start construction this year. But they hope to start the parking this year, which will set them up for being able to institute the bike path and also the shuttle bus down to Sand Harbor and further south.

Commissioner Horan asked how that impacts Incline and Crystal Bay, which is going the other way.

Mr. Webb said that is does not. He was just passing on the information.

Chair Barnes closed the public hearing and called for Commission discussion. There was none.

Commissioner Horan moved that based on testimony and comments received during the meeting, discussion and review of this matter by the Planning Commission, and consistency with the adopted annual reporting procedures and state law, the Washoe County Planning Commission directs staff to submit the Washoe County 2016 Regional Plan Annual Report, included as Attachment A to the staff report accompanying this item, with no changes, to the Truckee Meadows Regional Planning Commission and the Truckee Meadows Regional Planning Governing Board on behalf of the Washoe County Planning Commission.

Commissioner Chesney seconded the motion, which passed with a vote of six for (Commissioners Barnes, Chvilicek, Chesney, Edwards, Horan and Prough), none against.

10. Chair and Commission Items

***A. Future agenda items**

None

***B. Requests for information from staff**

Vice Chair Chvilicek said that some of the Area Plans have a five-year review and asked if Planning staff has a timeline for the review of Area Plans.

11. Director's and Legal Counsel's Items

***A. Report on previous Planning Commission items**

Mr. Webb stated that the Black Rock Station Regulatory Zone Amendment for the Specific Plan will be heard by the Washoe County Commission on May 10, 2016. The powerline relocation, which was a special use permit for one powerline, will go to Regional Planning on May 11, 2016. Regarding the winery development code amendment, staff conducted their first workshop with the working group on April 19, 2016, and they met again on May 3, 2016. The results of the second workshop will determine whether or not a third workshop will be held. The development code amendment should come back to the Planning Commission in June or July. The joint meeting with the Reno Planning Commission for the Reno-Stead Corridor Joint Plan will be on May 18, 2016, at 6:00 p.m. in the Reno City Council Chambers. The County Commission took action on both sets of appeals for the developments on Pyramid Highway and upheld the appeals, so overturned the action of the Planning Commission on both.

***B Legal information and updates**

None

12. *General Public Comment

There was no public comment.

13. Adjournment


With no further business scheduled before the Planning Commission, the meeting adjourned at 8:40 p.m.

Respectfully submitted,



Katy Stark, Recording Secretary

Approved by Commission in session on June 7, 2016.



Carl R. Webb, Jr., AICP
Secretary to the Planning Commission



Gunderson
Law Firm

From the Desk of:
Mark H. Gunderson, Esq.
mgunderson@gundersonlaw.com

August 19, 2016

*Via Electronic Mail – nedwards@da.washoecounty.us
and U.S. Mail:*

Nathan Edwards, Esq.
Washoe County District Attorney's Office
One South Sierra Street
P.O. Box 11130
Reno, Nevada 89520

Re: Washoe County Planning Commissioner Thomas Daly

Dear Mr. Edwards:

This office represents Washoe County Planning Commissioner Thomas Daly in the upcoming removal hearing scheduled for August 23, 2016. In advance of that hearing, we request that the following information and legal analysis be presented to the Washoe County Commission for their review and consideration.

Introduction

This removal hearing is based on the assumption that Planning Commissioner Daly's statements in the Reno Gazette-Journal differed from those statements he made publicly during the April 5, 2016 hearing and that, in making those statements, he has acted inappropriately. This assumption is wrong.

Planning Commissioner Daly's statements in the Reno Gazette-Journal article were nothing more than a repetition of the statements he made publicly at the April 5, 2016 Planning Commission Meeting. The statements were not evidence of prehearing bias: they were made mid-hearing, while the application was actually being considered, and then repeated publicly in both the meeting minutes and the newspaper article. They do not violate the Planning Commission's Rules or the applicant's due process rights any more than the public meeting minutes would have. For these reasons, there are no legal grounds for Planning Commissioner Daly's removal.

Relevant Factual Summary

The facts underlying this dispute are simple. On April 5, 2016, Towne Development of Sacramento, Inc. appeared before the Washoe County Planning Commission seeking approval of the Colina Rosa Tentative Map. According to the minutes of that meeting, approximately

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five members of the public spoke to the Planning Commission about the application at the hearing, with another citizen commenting in writing. April 5, 2016 Meeting Minutes at p.12-14, Exhibit 1 to the July 12, 2016 letter to Planning Commissioner Daly ("Removal Letter"). These Washoe County citizens expressed concern about the impact on traffic and schools in the area, along with concerns about increased fire risk. The citizens also raised issues of density and questioned whether this level of density was appropriate for the area. *Id.*

At the hearing, Planning Commissioner Daly shared the concerns expressed by the citizens of his district. He specifically identified the possible impact on traffic patterns and overcrowded schools that could arise out of this development. April 5, 2016 Meeting Minutes at p. 17, Exhibit 1 to the Removal Letter. He also said that he was concerned about fire issues and the density of the project itself. Finally, Planning Commissioner Daly stated that he could not approve the motion proposed by staff and that he would move to amend it. Planning Commissioner Daly moved to continue the application to the May meeting and "requested that staff report back on issues related to traffic, schools, and fire, at a minimum, based on the conversations of the evening." April 5, 2016 Meeting Minutes at p. 18, Exhibit 1 to the Removal Letter. This motion carried and the application hearing was continued.

Following the hearing, Planning Commissioner Daly wrote an opinion article in the Reno Gazette-Journal repeating the comments he had already publicly made during the April 5, 2016 hearing. In both venues, Planning Commissioner Daly commented that there were problems with the proposed application's impact on traffic, school, and fire. In both venues, Planning Commissioner Daly commented that the density of the proposed development did not appear to be in line with the rest of the community. In both venues, Planning Commissioner Daly also stated that this application, in its then-current form, would not be approved by him: "Not on my watch and not with my vote."

This statement, identified in the Removal Letter as specific grounds for Planning Commissioner Daly's proposed removal, is verbatim to his statement at the April 5, 2016 meeting as recorded on p. 17 of the Meeting Minutes. Critically, Planning Commissioner Daly made no statements and expressed no opinions in the Reno Gazette-Journal that he had not already publicly stated during the meeting itself and that were not repeated in the subsequent meeting minutes.

On May 3, 2016, Towne Development of Sacramento, Inc. once again appeared before the Planning Commission with its application. At that time, the applicant presented a substantially modified version of the application. Towne Development of Sacramento, Inc. made changes to its proposed traffic plans. It also addressed the density issues at length and discussed the specific impact the plan would have on local schools; the applicant also made changes to its proposal to accommodate the fire concerns that had been raised at the previous meeting. May 3, 2016 Meeting Minutes at p. 5-6, Exhibit 4 of the Removal Letter. There were also changes to the application by the Planning Department staff and, at the meeting itself, a change to the setbacks from the original application. None of these revisions were provided to Planning Commissioner Daly in advance of the May 3, 2016 meeting.

In response to these significant changes to the application, Planning Commissioner Daly stated that the materials they were reviewing that night were "materially different" from what they had previously seen and that he believed the changes were an improvement. May 3, 2016 Meeting Minutes at p. 12, Exhibit 4 to the Removal Letter. He also stated that he was taking a "fresh look" at the application, but that because he had only received it within the last hour he did not feel prepared to vote one way or the other. *Id.*

After additional discussions by the Planning Commissioners and others, the application was approved 5-2. Planning Commissioners Prough and Daly voted against approval.

Legal Analysis

A planning commissioner may be removed for "just cause" pursuant to NRS 278.040(5). Washoe County Code Section 11.912.05(f) further states that a planning commissioner may be removed from office for "inefficiency, neglect of duty, or malfeasance of office." In the July 12, 2016 Removal Letter, Washoe County Manager John Slaughter identified three separate bases for the possible removal. It is our understanding that the third basis has been rescinded, leaving two outstanding: (1) alleged violation of Rule 1.04(a)(ii)(d) of the planning commission's Rules, Policies & Procedures and (2) a possible claim by applicant Towne Development of Sacramento, Inc. of violation of its due process rights. We will address each of these issues in turn.

Violation of Planning Commission Rules, Policies & Procedures

Planning Commission Rule 1.04(a)(ii)(d) only prohibits the formation or communication of "preferences or thoughts that may be perceived as **prehearing bias**" (emphasis added). None of Planning Commissioner Daly's statements at the April 5, 2016 hearing could be considered **prehearing bias**; they were statements made mid-hearing, in public, on the record, to the applicant, the other planning commissioners, and the Washoe County citizens who were present. Those comments were recorded by the clerk and made part of the public meeting minutes. The repetition of those comments in the local newspaper is no more evidence of a prehearing bias than the publication of the meetings minutes would be.

When the application was presented again in May 2016, Planning Commissioner Daly expressly stated that he believed the revised application to be "materially different" from the earlier application and that he viewed this new application as an improvement. Although he ultimately voted against the application, his basis for doing so was simply because he desired more time to consider these material changes. May 3, 2016 Meeting Minutes at p. 12.

Furthermore, Planning Commission Rule 1.04(a)(i)(b) specifically encourages planning commissioners to "promote public interest in land use plans and policies." By publishing his comments from the public hearing in the local newspaper, Planning Commissioner Daly was

able to promote public interest in land use plans and policies to a greater number of Washoe County citizens than would otherwise read the meeting minutes of their own accord.

There is no violation of the Planning Commission's rules. Planning Commissioner Daly's public statements regarding the application were made during the hearing, not prehearing, and they were simply repeated in the meeting's minutes and in the newspaper article. When the application was considered again in May 2016, it was materially different and improved, and Planning Commissioner Daly was prepared to consider the new application "objectively [and] "dispassionately because he had new information." May 3, 2016 Meeting Minutes at p. 12. There is simply no evidence of a prehearing bias from Planning Commissioner Daly.

Violation of Applicant's Due Process Rights

There is also no evidence to support a due process violation. Towne Development of Sacramento, Inc. has not suffered any deprivation of property rights: its application was approved on May 3, 2016. With no deprivation of a protected right, there is no violation of due process.

To establish a claim for deprivation of due process, a claimant must establish the following three factors: (1) a protected property interest; (2) a deprivation of the interest by the government; and (3) lack of process. *See State v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 118 Nev. 140, 154, 42 P.3d 233, 242 (2002); *see also Knight Piesold & Co. v. Fourth Judicial Dist. Court ex rel. Cty. of Elko*, 126 Nev. 731, 367 P.3d 790 (2010). The second element of a claim for violation of due process simply cannot be met: because the application was approved, the applicant was not deprived of its property interest. Without this critical element, there is no due process violation.

The cases cited in the Removal Letter are inapt. In each of those cases, the party suffering claiming to have been deprived of due process was actually harmed. In *Gilman*, a veterinarian's license was suspended; in *Ross*, attorneys were suspended or disbarred; in *Nasha LLC*, a developer's application was denied. These are all materially different from the application at issue, which was approved.

Furthermore, Planning Commissioner Daly's comments at the April hearing and the repetition of those comments in the meeting minutes and in the newspaper article are not evidence of an unfair trial or a biased tribunal. As stated above, these were statements made mid-hearing and were based on the application then under consideration. When the hearing reconvened a month later, the application was materially different and, in Planning Commissioner Daly's stated opinion, improved. Planning Commissioner Daly stated that he would consider this new application objectively and dispassionately, with fresh eyes. However, he also stated that he would need additional time to review the voluminous new material in the application. For this reason, he voted against approval on May 3, 2016. The application was nevertheless approved, 5-2, and Towne Development of Sacramento, Inc. suffered no harm.

Nathan Edwards, Esq.
Washoe County District Attorney's Office
August 19, 2016
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Planning Commissioner Daly's actions did not create an unfair trial or biased tribunal. There is absolutely no basis, in law or in fact, that would support a claimed violation of due process. His actions also did not violate the Planning Commission's rules regarding prehearing bias. For these reasons, the Washoe County Commission has no basis for removing Planning Commissioner Daly.

Very truly yours,

GUNDERSON LAW FIRM

A handwritten signature in black ink, appearing to read "Mark Gunderson". The signature is fluid and cursive, with the first name "Mark" being more prominent than the last name "Gunderson".

Mark H. Gunderson, Esq.

CGF/II