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CARSON CITY
PLANNING DIVISION

P.O. Box 3064

Carson City, Nevada 89702

Phone (775) 882-6393

soullum@sbcglobal.net

Allan & Bobbie Soullum

July 23, 2015

Lee Plemel, Director
Community Development Department
108 E. Proctor Street
Carson City, Nevada 89701

**RE: July 29, 2015 Planning Commission Agenda
Agenda Item SUP-04-095**

Dear Mr. Plemel:

Thank you for allowing us to speak with you concerning the above-referenced agenda item. You suggested we submit any questions regarding this item to your office prior to the July 29th Planning Commission meeting so that our questions and comments may be included with the public record.

First, we would like to memorialize our discussion with you regarding the notification process related to this agenda item.

You described to us a desire on the part of your office to meet the requirements of CCMC §18.02.045 with respect to notifying property owners, and you mentioned a concern for not prejudicing opinion against an applicant through excessive notification. You pointed to actually exceeding the minimum notification requirement by 280 feet in the instant case, to be certain at least 30 unique property owners nearest the subject site were notified as required by the Code. A computer program in your office was described as a factor in deciding which addresses are selected for receiving notices.

We believe the notification process for the Cinderlite Special Use Permit is flawed. CCMC §18.02.045 states in part, "At least 30 unique property owners nearest the subject site must be noticed if there are not 30 unique property owners within 300 feet of the subject site." It does not prohibit your noticing other property owners who are obviously affected. Concern about prejudicing opinion against an applicant should not result in distribution of information to fewer citizens.

We are among the property owners in close proximity to Cinderlite's Carson City extraction operations not notified of the forthcoming Planning Commission review. Although our home is visibly and audibly close to Cinderlite's extraction operations, (and potentially closer should Cinderlite's operation expand east of Goni Road), we found out about the hearing through a happenstance chat with a neighbor who was lucky to be notified. Of the 32 notices mailed out by your office, seven included the City; Cinderlite, its partners and owners; and the U.S. Government. We believe the current minimalistic approach to notifying affected

parties has resulted in many affected by Cinderlite's operations being excluded from your mailing list and the review process. Due to the nature of Cinderlite's business, a large-scale extraction operation and commercial trucking, notifications should have also included the many residences and businesses along Goni Road. Cinderlite trucks, as well as commercial trucks of its customers, travel up and down the deteriorating Road from at least 6:00 a.m. to 6:00 p.m. Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturday.

Please include these comments and questions regarding SUP-04-095 in the record:

A. SUP-04-095 Condition #14:

This condition of the Special Use Permit issued in 2004 required mitigation of the residential portion of Goni Road north of Arrowhead (later amended to Conestoga Drive) to Avery so that the street would be able to stand the loading from Cinderlite operations. The condition specified Cinderlite would contribute \$125,712 at the time of reconstruction in 12 years or "approximately \$10,000 per year" as Cinderlite's obligation. In undated correspondence, the Transportation Manager of Carson City Public Works has notified you the City does not currently have enough funding to pay the City share of the cost of such project. Further, he suggests the City will not seek the financial contribution of the permittee until the project can be implemented.

The damage to Goni Road has already occurred. Cinderlite's obligation is a matter of record. It seems foolish for the City to delay securing Cinderlite's contribution for the repair of Goni Road. To protect the City's interest, it should collect the amount owed for repairs by the permittee now, and work on obtaining the balance of project costs through its budget process.

Should the applicant balk at paying its agreed repair obligation until City finances improve, it seems prudent for the City to modify Condition #14 now at the current review. The applicant's obligation should be adjusted upward for repairs so that they are more in line with escalated costs associated with the delayed repair of Goni Road, including future inflationary impacts.

B. SUP-04-095 Condition #15:

"The site shall be reviewed as related to drainage and erosion by the City Engineer on an annual basis, in June of each year. The applicant agrees to maintain any storm water basin in accordance with the Carson City Storm Water Facilities Operation and Maintenance Manual. The applicant shall protect or mitigate disturbance to any nature drainage course as required under the Carson City Development Standards per the City Engineer."

Question: Are the City Engineer's annual reviews available to the public for viewing?

C. SUP-04-095 Condition #20:

"Blasting is occasionally required when an exceptionally hard area of bedrock is encountered. It is anticipated that blasting will be required four to six times per year. Prior to any blasting the fire and sheriff departments shall be notified and appropriate safety measures will be enforced to ensure no people are in the vicinity of the blast. Blasting hours shall be from 10:00 a.m. to 4:00 p.m., Monday through Friday only."

Shock waves and large plumes of dust have been experienced.

Questions: How many blasts have occurred from 2005 to the present? What noise level readings and air quality readings were recorded during those blasts?

Despite the level of blasting, we have received only two (2) blasting notices since 2004. The two notices vaguely stated blasting would begin (a) June 26, 2012 through September 2012; and (b) November 30, 2012 through January 2013. Both notices further indicated blasting "may occur Monday – Friday 8:00 a.m. – 5:00 p.m." However, Condition #20 in SUP-04-095 specifies, "Blasting hours shall be from 10:00 a.m. to 4:00 p.m., Monday through Friday only."

Questions: Will Cinderlite be required to adhere to the blasting hours originally specified in Condition #20? Will Cinderlite provide residents with more timely notification of blasting activities?

D. According to the US Department of Labor's Website, Cinderlite Trucking Company was issued 29 citations by the Mine Safety and Health Administration between 2010 and 2015. Within the list of citations was an October 25, 2011 violation of US Department of Labor Standard 56.3200, for which Cinderlite paid \$4,596 in settlement. This Standard addresses ground conditions that create hazards to persons.

Question: What occurred to warrant issuance of the citations?

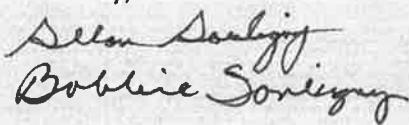
E. According to the US Department of Labor's Website, Cinderlite Trucking Company was issued seven (7) citations for violating Standard 56.14107(a) between 2011 and 2013. This Standard addresses guarding persons from moving machine parts that can cause injury.

Questions: Does Carson City have an interest in monitoring violations of safety standards by Special Use Permit holders? Do violations of safety standards warrant inclusion in Special Use Permit conditions?

F. A sense of where Cinderlite's extraction operations may be headed geographically, volumetrically, and chronologically would be a great benefit to nearby residents who are now largely bystanders. More information will allow us and the City to make important plans and decisions in the future.

We appreciate your addressing our comments and questions, and look forward to your reply.

Sincerely,

The image shows two handwritten signatures in black ink. The top signature is "Allan Souigny" and the bottom signature is "Bobbie Souigny".

Allan & Bobbie Souigny



Carson City Community Development

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711
planning@carson.org
www.carson.org/planning

MEMORANDUM

TO: Planning Commission

FROM: Lee Plemel, Community Development Director

DATE: July 28, 2015

SUBJECT: SUP-04-095 – Response to questions from Allan & Bobbie Souigny Letter

The Planning Division received comments and questions from Allan and Bobbie Souigny on July 27, 2015, regarding Cinderlite's five-year Special Use Permit review. Following is the Planning Division's response to the questions.

Issue 1: Property owner notification

The Souignys believe that City staff could have and should have notified residents in the vicinity of the subject properties beyond the minimum standards set forth in the Carson City Municipal Code. Notification was sent in accordance with the code consistent with past practice and advice from the District Attorney's Office to follow the notification requirements and not deviate from them. The Deputy District Attorney may address this issue in more detail at the Planning Commission meeting.

Issue A: Condition #14 and reconstruction of Goni Road

Condition #14 addresses the applicant's responsibility to participate in the cost of reconstruction of Goni Road when the reconstruction occurs. The cost-share is based on an analysis done by the Public Works Department with the original application approval in 2004. To amend this condition without a new detailed analysis would be arbitrary. The Public Works Department is not recommending amendment of this condition at this time. See the comments from Transportation Manager Patrick Pittenger included with the staff report packet for more information regarding condition #14.

Question B: City Engineer's annual drainage reviews

Condition #15 requires annual reviews of site drainage and erosion by the City Engineer. City Engineer reviews of the site have been conducted for each Special Use Permit review. The original approval in 2004 required annual reviews of the Special Use Permit, but that was changed after the first review in 2005 to five-year reviews. Staff believes the intent of this condition was originally to conduct the review before the Planning Commission's review, but condition #15 was not amended in 2005. The results of the Engineering Division's review are included with each Planning Commission review. The City Engineer has identified no drainage or erosion issues as a result of the most recent site visit in June 2015. Issues that arise between Planning Commission review dates—e.g. flood events—are addressed on an as-needed basis.

Question C: Condition #20 regarding “blasting”

The City does not monitor the number of blasts, noise levels during blasting, or air quality during blasting. The condition states that it is anticipated the blasting will occur four to six times per year. It would be expected that there would be some additional noise during blasting, but there is not a noise level standard. Air quality standards must be met, but air quality is monitored and regulated by the Nevada Department of Environmental Protection, generally on a complaint basis. Cinderlite is required to follow the conditions, and a complaint should be filed with the Planning Division if any resident believes they are in violation of the conditions. Complaints regarding dust should be directed to NDEP. The Planning Division has received no complaints regarding any violations of condition #20 in the last five years.

Question D: Mine Safety and Health Administration citations

The US Department of Labor is a federal agenda, separate from any City enforcement agency. Any violations or citations issued by the Mine Safety and Health Administration are not reported to Carson City, and the Planning Division has no information on what occurred to warrant the citations.

Question E: Safety violations monitoring by the City

The aggregate mining operation is subject to regulation by agencies other than Carson City, including the Bureau of Land Management (BLM), NDEP and other state and/or federal mine safety agencies. Information on violations from these other agencies is generally not shared with Carson City agencies, though they may be available to the City as public information. Safety of the operation should be a general concern of Carson City as it pertains to the Special Use Permit. However, it is only within the applicable agency's authority to monitor the operations and enforce their particular regulations. The Planning Commission should particularly focus on compliance with the conditions of approval imparted on the operation by the City.

Issue F: More information on the extraction operation

The Operations Plan for the aggregate mining operations that was approved with the original SUP in 2004 is quite detailed in terms of where they are geographically permitted to extract materials and the volume of material within that area. A copy of the key elements of the Operations Plan is attached to the staff report and more detailed information can be found in the complete Operations Plan on file in the Planning Division. As addressed with the original SUP approval, the pace activity within the aggregate operation depends largely on the pace of development within Carson City and surrounding areas for which the materials extracted from the site are used. It is based on the need for the material at any given time.

Planning staff will be available at the Planning Commission meeting to address additional questions as they may arise.