



Carson City Planning Division

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

MEMORANDUM

Planning Commission Meeting of November 19, 2019

TO: Planning Commission

Item E-8

FROM: Hope Sullivan, AICP
Planning Manager

DATE: November 6, 2019

SUBJECT: SUP-10-115-2: For Possible Action: Discussion and possible action regarding the one year review of the approval of a modification to a Special Use Permit for an Asphalt Plant on property zoned General Industrial, located at 8013 Highway 50 East, APN 005-611-35.

STAFF SUMMARY: At its meeting of October 24, 2018, the Planning Commission approved the modification of a Special Use Permit for an Asphalt Plant, specifically modifying the hours of operation. In approving this modification, the Planning Commission included a condition of approval mandating a review in one year. The condition further explains that in conducting the one year review, the Commission shall conduct a public hearing. Based on input received at the public hearing, the Commission may modify conditions of approval, or request staff to schedule additional reviews of the Special Use Permit.

Recommended motion:

No motion is proposed.

Noticing

On October 24, 2019, notice of the public hearing was mailed to 33 property owners within 7500 feet of the subject property. This notice also appeared in the newspaper, on bulletin boards throughout the City, and on the City's and State's websites.

On October 24, 2019, an email was sent to Robert Matthews of Tahoe Western Asphalt advising him of the public hearing.

On October 24, 2019, an email was sent to Lyon County, Nevada Senior Planner Robert Pyzel informing him of the public hearing.

On October 28, 2019, the Planning Manager spoke with Robert Matthews of Tahoe Western Asphalt and advised him of the public hearing.

Comments

Since the meeting of October 24, 2018, the City's Code Enforcement staff has received 99 complaints about the subject use. Ninety eight of the complaints were about odors, and one complaint was in regard to hours of operation.

Based on complaints, Code Enforcement staff has documented visits to Mound House on six occasions. During one visit, there was no odor detected, during four visits there was a faint odor detected, and during one visit there was a strong odor detected. Staff contacted Mr. Matthews, the plant operator, the morning of the strong odor and Mr. Matthews advised the reason for the strong odor was that he was low on propane. This information is documented in a memorandum dated November 6, 2019 from William Kohbarger, Carson City Code Enforcement to the Planning Manager.

Nathan Rash, Compliance Officer with the Nevada Division of Environmental Protection, has advised that between October 24, 2018 and October 22, 2019, the Bureau of Air Pollution Control (BAPC) has received 127 complaints, all odor complaints. Although strong odors and opacity has been observed, the source has been intermittent and the threshold for a violation has not been met.

In an October 24, 2019 email, Lyon County Senior Planner Rob Pyzel advised that Lyon County has not received any recent complaints from the Mound House community in regard to odors and smoke from Tahoe Wester Asphalt's facility.

Given a lack of substantiated concerns, staff is not recommending any further action.

Attachments:

- November 6, 2019 Memorandum from Code Enforcement to the Planning Manager
- October 22, 2019 email from Nathan Rash, Nevada Department of Environmental Protection.
- October 24, 2019 email from Robert Pyzel, Senior Planner, Lyon County, NV
- Executed Notice of Decision SUP-10-115-2
- Staff Report Dated October 24, 2018



Carson City Code Enforcement

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

MEMORANDUM

TO: Hope Sullivan, Planning Manager

FROM: William Kohbarger, Code Enforcement

DATE: November 06, 2019

SUBJECT: Tahoe Western Asphalt LLC
8025 Hwy 50 E

The following is a Code Enforcement summary of all the complaints, investigations and interactions involving Case #101162, Tahoe Western Asphalt LLC.

Pursuant to your request, I am providing information on this case from October 24, 2018 forward.

Number of Complaints: 99
Odor complaints = 98
Hours of operation = 1

Notice of Violations:
None

Visits to Mound House:
November 05, 2018 – faint odor detected;
April 26, 2109 – no odor detected;
August 01, 2019 – strong odor detected;
September 18, 2109 – faint odor detected;
September 20, 2019 – faint odor detected;
October 02, 2019 – faint odor detected.

The following paragraphs are an entry Code Enforcement Johnston placed into SWEEPS:

August 1, 2019 Code Enforcement Officer Johnston arrived to work and received 2 voice mail messages regarding a bad smell being emitted from the asphalt plant. I also received an email from Mr. Lucas with a photo of the plant operating.

At approximately 0930hrs, I performed a site visit to the Mound House Mobile Home Park area where all the complainants live. I arrived within the area and stopped at the intersection of Highlands and Traci streets. I easily identified an odor that is the smell of asphalt within the area. I continued to drive in the neighborhood and I was able to smell the same asphalt odor in

the upper Miriam St. area. I performed another drive through the neighborhood and smelled the same odor again within the same locations at the intersection of Highlands and Traci, Traci and Miriam and the entire Miriam St. After stopping and writing down the locations of the odor I went to observe the asphalt plant. I observed them operating from the water tank and took photos and video of the plant loading an A&K Earthmovers Truck with asphalt. I was sitting at a higher elevation than the plant and did not smell the asphalt odor. I did observe the wind was traveling East in the direction of the mobile home park being effected. I called and notified NDEP Supervisor Travis Osterhout.

I also notified Carson City Planning Manager Hope Sullivan who called Tahoe Western Asphalt Owner Mr. Mathews. Mr. Mathews stated he ran low of propane supply which makes his asphalt plant burn differently than from a normal supply. Mr. Mathews stated that is the reason why his operation has changed today. Ms. Sullivan also asked him if he has made any changes to his operation and he said no and he has been extremely busy with business. Ms. Sullivan asked him if he is still using and supplying the odor eliminating additive and he said yes. Mr. Mathews informed us that he has repaired the propane shortage and is back to normal operating procedures.

I called Mr. Lucas at approximately 0920hrs, and asked if he would be willing to meet at his house in about 25 minutes. Mr. Lucas agreed. As I was driving towards Mound House, I observed that Tahoe Western Asphalt was currently operating and emitting large plumes of white smoke or vapor from the plant. The smoke was coming from both the large tall cylinder tank and the asphalt plant loading tower. There was also quite a bit of dust coming from the N.E. aggregate mine within the property. As I drove East on HWY 50 passing the entrance to the asphalt plant and continued towards Mound House I also smelled what I recognized as burning asphalt. I entered the Lucas's mobile home housing complex and the smell became stronger. I drove through the housing complex to the Lucas's residence and observed the smell at the way to their house. The smell and odor was noxious and unpleasant. I met with Mr. Lucas who stated his concerns and described how he has had to tolerate the unbearable smell for over a year. I engaged in a long conversation with Mr. Lucas and his wife Judy. I explained to the both of them how asphalt is made, transported and how it is used to build roads. I also explained to them that the Carson City Code Enforcement Department has received all their complaints and documented everything regarding Tahoe Western Asphalt and their operations and violations. I told the Lucas's that our Departments have done everything we possibly can to ensure the company is in compliance with the CCMC's and have corrected their violations. I advised them that they do have the right to file a criminal complaint with the Carson City District Attorney's Office and they may do so with the NRS nuisance violation. I explained that I would not know which jurisdiction would be best and they may want to file a criminal complaint with the Lyon County DA's Office as well.

I instructed them that we will continue to take their complaints and document them for City public record and if we are able to take Code Enforcement action we would continue to do so.

Hope Sullivan

From: Nathan Rash <nrash@ndep.nv.gov>
Sent: Tuesday, October 22, 2019 7:57 AM
To: Hope Sullivan
Cc: Travis Osterhout
Subject: RE: please forward

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good morning Hope,

Since October 24, 2018 the BAPC has received 127 complaints regarding TWA originating from 17 unique parties (excluding those who wished to remain anonymous). Our official record lists all of these complaints as odor complaints but it is often the case that when I call or speak with the reporting party visible emissions are also a concern (often phrased as "smog", "smoke" or some variant thereof). The BAPC is in consistent contact with the reporting parties by telephone and most of the parties report odor as their primary concern followed closely by the health effects the facilities emissions may have on them.

The BAPC has made an effort to investigate as many of these complaints as possible, both directly responding to complaints as they are called in and by doing random checks of the Moundhouse Highlands neighborhood. During the timeframe in question, no violations were issued. Please note that this is not to say that odors and visible emissions were not observed. There has been several cases where a strong odor or elevated opacity was observed, but since both our odor and opacity regulations involve an averaging period and the nature of the source is intermittent, the threshold for a violation was not met.

I hope this helps. Should you require any further information or if I can be of any assistance please let me know.

Thank you,

Hope Sullivan

From: Rob Pyzel <rpyzel@lyon-county.org>
Sent: Thursday, October 24, 2019 12:21 PM
To: Hope Sullivan
Subject: Re: Tahoe Western Asphalt

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hope;
Thanks for the update. Glad you get a night off!
I asked the Code Enforcement Officer and County Manager if they had received any recent complaints from the Mound House community in regard to odors and smoke from Tahoe Western Asphalt's facility. They both indicated they had not. I also have not heard any recent complaints in regard to Tahoe Western Asphalt's facility west of Mound House.

Cheers,

Rob Pyzel, Planner
Lyon County Planning Department
(775) 246-6135; X-2473
rpyzel@lyon-county.org

Definition of caveat emptor: a principle in commerce: without a warranty the buyer takes the risk.

On Thu, Oct 24, 2019 at 11:48 AM Hope Sullivan <HSullivan@carson.org> wrote:

Rob:

Due to a noticing error, the Planning Commission meeting of October 30 is cancelled. The Planning Commission will perform the one year review on Tahoe Western Asphalt at its meeting of November 19, 2019. This item will not be heard before 5:30 PM.

Hope Sullivan, AICP

Planning Manager

Carson City, NV 89701

775-283-7922



Carson City Planning Division

108 E. Proctor St.

Carson City, Nevada 89701

(775) 887-2180

Planning@carson.org

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★ CLERK ★
FILED

Time 12:46 p.m.

OCT 31, 2018

PLANNING COMMISSION

October 24, 2018

By K. Barre
Deputy
Carson City, Nevada

NOTICE OF DECISION – SUP-10-115-2

An application was received to consider a request to modify a Special Use Permit for an Asphalt Plant, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The subject property is zoned General Industrial, and is located at 8013 Highway 50 East, APN 008-611-35.

The Planning Commission conducted a public hearing on October 24, 2018, in conformance with City and State legal requirements and approved SUP-10-115-2 based on the findings contained in the staff report and subject to the following conditions of approval.

CONDITIONS OF APPROVAL:

Note the base language in these conditions are the conditions of approval approved on January 26, 2011 with SUP-10-115. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears with a strikethrough.

The following shall be completed prior to commencement of the use:

1. The applicant must sign and return the Notice of Decision / conditions of approval within 10 days of receipt of notification. If the Notice of Decision is not signed and returned within 10 days, the item will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.


The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.
11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP Bureau of Air Pollution Control Air Quality Operating Permit, including days and hours of operation. The applicant shall also comply with applicable requirements for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from 7:00 ~~6:00~~ a.m. to 6:00 p.m., Monday through Saturday, with gates open to customers only during these hours. Startup of equipment may occur between 5:30 AM to 6:00 AM. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. The applicant may work at night or on a Sunday, other than on an emergency basis, up to 30 times in a calendar year. When work is to occur at night or on a Sunday (other than on the emergency basis), the operator shall advise the Community Development Director in writing at least 72 hours prior. Nothing in this condition shall be construed as superseding any limitation on hours of operation put in place by NDEP.
14. A roof shall be installed and maintained over the truck loading chute area.
15. Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.
16. The vent condenser that has been installed must be maintained.
17. The operator shall utilize Ecosorb in operations to suppress odors.
18. This Special Use Permit is subject to review in one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.

This decision was made on a vote of 5 ayes, 1 nays, 1 absent.


Hope Sullivan, AICP
Planning Manager

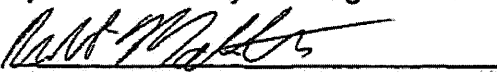
HS:lr

Emailed on: 10/31/2018

By: lp

**PLEASE SIGN AND RETURN THIS NOTICE OF DECISION WITHIN
TEN DAYS OF RECEIPT**

This is to acknowledge that I have read and will comply with the Conditions of Approval as approved
by the Carson City Planning Commission.


OWNER/APPLICANT SIGNATURE

DATE 11-2-2018

Robert Matthews
PLEASE PRINT YOUR NAME HERE

RETURN VIA:

Email to: planning@carson.org
Fax to: (775) 887-2278
Mail to: Carson City Planning Division
108 E. Proctor St.
Carson City, NV 89701

STAFF REPORT FOR PLANNING COMMISSION MEETING OCTOBER 24, 2018

FILE NO: SUP-10-115-2

AGENDA ITEM: E.8

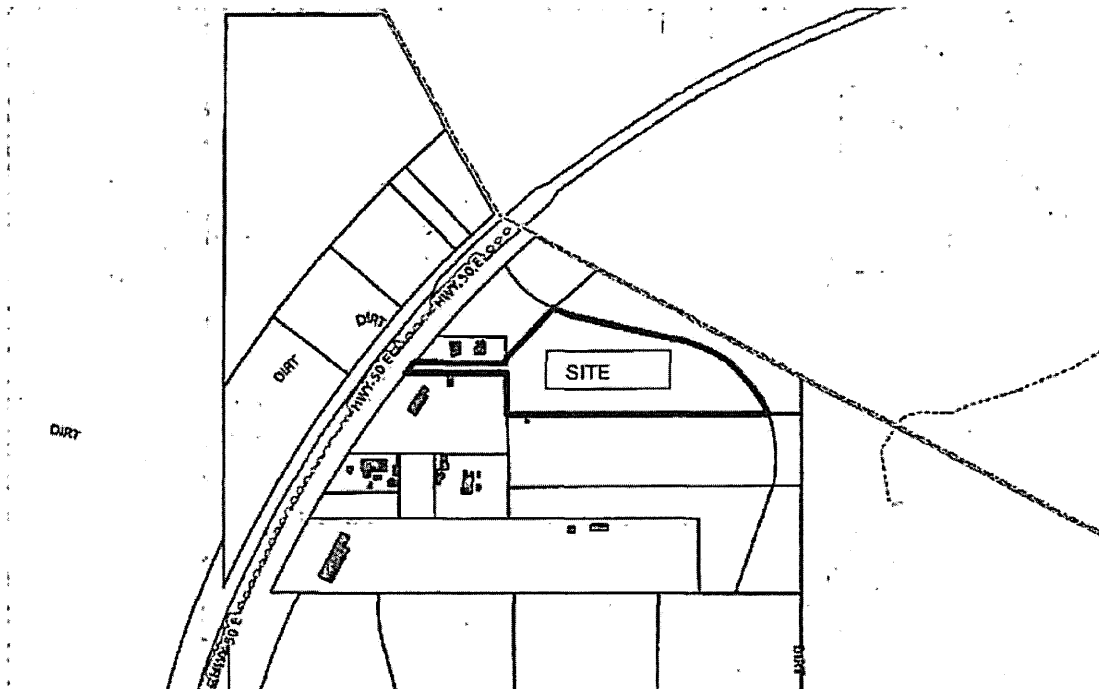
STAFF CONTACT: Hope Sullivan, Planning Manager

AGENDA TITLE: For Possible Action: To consider a request to modify a Special Use Permit for an Asphalt Plant, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The subject property is zoned General Industrial, and is located at 8013 Highway 50 East, APN 008-611-35. (Hope Sullivan, hsullivan@carson.org)

STAFF SUMMARY: On January 26, 2011, the Planning Commission approved a Special Use Permit for an asphalt plant and aggregate crushing facility on the subject property. That approval included a condition of approval that limited the hours of operation to Monday through Saturday, 7:00 AM – 6:00 PM. The applicant is now seeking to modify to the Special Use Permit to have expanded hours. The Planning Commission has the authority to modify a Special Use Permit.

RECOMMENDED MOTION: "I move to approve a request to modify Special Use Permit SUP-10-115-2, to modify the hours of operation based on the ability to make the seven required findings in the affirmative and subject to the recommended conditions of approval contained in the staff report."

VICINITY MAP:



RECOMMENDED CONDITIONS OF APPROVAL

Note the base language in these conditions are the conditions of approval approved on January 26, 2011 with SUP-10-115. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears with a strikethrough.

The following shall be completed prior to commencement of the use:

1. The applicant must sign and return the Notice of Decision / conditions of approval within 10 days of receipt of notification. If the Notice of Decision is not signed and returned within 10 days, the item will be rescheduled for the next Planning Commission meeting for further consideration.
2. The applicant shall meet all the conditions of approval and commence the use (obtain and maintain a valid building permit) for which this permit is granted within twelve months of the date of final approval. A single, one-year extension of time may be granted if requested in writing to the Planning Division thirty days prior to the one-year expiration date. Should this permit not be initiated within one year and no extension granted, the permit shall become null and void.

Conditions required to be incorporated into the proposed development plan.

3. All development shall be substantially in accordance with the development plans approved with this application, except as otherwise modified by the conditions of approval herein.
4. All lighting must be directed downward. The design of the light standards must include cutoffs and shields, if necessary, to prevent any spillover of light or glare on to adjacent properties.
5. All improvements shall conform to City standards and requirements.

The following shall be submitted or included as part of a building permit application:

6. The applicant shall obtain a building permit from the Carson City Building and Safety Division for the proposed construction.
7. The applicant shall submit a copy of the Notice of Decision / conditions of approval, signed by the applicant and owner.
8. Details of the proposed light standards must be submitted with the building permit.
9. The applicant shall ensure that water or other appropriate wetting agents are utilized on the stock-piled material.

The following are associated with the use.

10. At all times when operations are not ongoing, the site must be secured by protection gate.

11. All federal, state and other local agency approvals shall be secured relative to the operation of this facility.
12. The applicant shall comply with, applicable requirements of NDEP for noise, odors, erosion, air pollution and dust control.
13. Operating hours are to be from ~~7:00~~ 6:00 a.m. to 6:00 p.m., Monday through Saturday. Operating on Sunday would be on emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis. The applicant may work at night or on a Sunday up to 30 times in a calendar year. When work is to occur at night or on a Sunday, the operator shall advise the Community Development Director in writing 72 hours prior.
14. A roof shall be installed and maintained over the truck loading chute area.
15. Water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air shall be installed and maintained.
16. The vent condenser that has been installed must be maintained.
17. The operator shall utilize Ecosorb in operations to suppress odors.
18. This Special Use Permit is subject to review in one year. In reviewing the Special Use Permit, the Planning Commission shall conduct a public hearing, and the noticing for the public hearing shall be consistent with CCMC 18.02.045.

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); 18.02.080 (Special Use Permits)

MASTER PLAN DESIGNATION: Mixed Use Commercial and Public Conservation,
Virginia & Truckee Railroad Gateway Specific Plan
Area.

ZONING DISTRICT: General Industrial

KEY ISSUES: Will the proposed hours of operation be compatible with adjacent land uses and properties?

SURROUNDING ZONING AND LAND USE INFORMATION

NORTH: General Industrial / Vacant V+T railroad tracks, Lyon County/Carson City boundary
SOUTH: General Industrial / Industrial Uses
EAST: General Industrial / Vacant V+T railroad tracks
WEST: General Industrial / Industrial Uses

SITE HISTORY

January 03, 1984 the Regional Planning Commission approved a Special Use Permit application, U-83-37 from Eagle Valley Construction to allow a portable rock crushing operation on site.

January 04, 1984 the Board of Supervisors reviewed and approved U-83-37.

January 22, 1985 the Regional Planning Commission reviewed the previously approved U-83-37 and indicated that there were no problems with the operation and continued approval.

January 23, 1985 the Board of Supervisors approved a review of the previously approved Special Use Permit U-83-37.

February 07, 1985 the Board of Supervisors approved the review of U-83-37.

August 25, 1994 a Special Use Permit U-94/95-123 was submitted to allow the extraction of materials and the installation and operation of a portable rock crusher for aggregate road base.

September 19, 1994 the Community Development Department determined that a new Special Use Permit was not required as long as the new operator is subject to the conditions of approval of Special Use Permit U-83-37.

September 19, 1994 the applicant of Special Use Permit SUP-94/95-13 submitted a request for a formal withdrawal of the Special Use Permit.

November 02, 2010 City staff conducted a Major Project Review of the proposed Far West Hybrid Asphalt Plant. At that time comments were provided to the applicant related to the proposed project.

November 17, 2010 the proposed project was presented to the Carson City Airport Authority. The Airport Authority voted to send its disapproval of the proposed wind turbine to the Board of Supervisors and the Planning Commission.

January 26, 2011 the Planning Commission approved a Special Use Permit for an Asphalt Plant and Aggregate Crushing Facility.

September 28, 2011 the Planning Commission approved a Special Use Permit to allow four 190 foot tall wind turbines on the property.

February 2, 2016 the Community Development Department found that the Special Use Permit for the aggregate and the batch plant operations was still valid.

March 15, 2016 a Major Project Review (MPR) meeting was conducted relative to the asphalt plan and crushing facility. At the meeting, applicant advised plans were not current, and MPR comments were not prepared.

ENVIRONMENTAL INFORMATION

FLOOD ZONE: Zone X

SLOPE/DRAINAGE: The site is primarily flat
SEISMIC ZONE: Zone II: Moderate

SITE DEVELOPMENT INFORMATION

PARCEL AREA: 10 Acres
EXISTING LAND USE: Asphalt plant

DISCUSSION:

Per Carson City Municipal Code (CCMC) 18.04.150, Asphalt Manufacturing is a Conditional Use in the General Industrial (GI) Zoning District. At its meeting of January 26, 2011, the Planning Commission approved Special Use Permit SUP-10-115 allowing for an asphalt plant and aggregate crushing facility on the subject property. The Special Use Permit was approved subject to conditions of approval, including:

13. *Operating hours are to be from 7:00 AM to 6:00 PM, Monday through Saturday. Operating on Sunday would be on an emergency basis only; emergency basis means fire, flood or other major event where the City is in need of material for a crisis.*

The applicant is seeking to modify the conditions of approval, specifically modifying the hours to allow startup of equipment from 5:30 AM – 6:00 AM, with gates open to customers from 6:00 AM – 7:00 PM, and with an ability to run nights exclusively for municipal and state work. The applicant has advised staff that the expanded hours are necessary to meet customer demand, including anticipated demand from the South Carson Street project and improvements on Highway 50 from Stage Coach to Silver Springs. Staff cannot regulate who purchases the asphalt and where it is used. Therefore, staff recommends that the conditions of approval remain silent of whether the asphalt is being manufactured for a public project or a private project.

The process to modify the Special Use Permit is the same as obtaining a Special Use Permit. The Planning Commission conducts a public hearing, and is authorized to issue the modification to the Special Use Permit upon making each of the seven required finding of fact in the affirmative. The conditions of approval may change as necessary to make the required findings.

Although the Special Use Permit was approved in 2001, operations of the Asphalt Plant actually commenced on July 9, 2016. The Special Use Permit was still valid in 2016 as the aggregate crushing facility had commenced work within twelve months of approval of the Special Use Permit.

Since operations began in July 2016, there have been three notices of violation issued by the City's Code Enforcement staff for operating outside of approved operating hours. The notices of Violation cited starting work before 7:00 AM and working on Sunday.

The notices of violation were only issued in cases where Code Enforcement staff could validate the violation. Although only three notices were issued, between February 20, 2018 and September 26, 2018, fifty-six complaints were received. These complaints were primarily related to working outside of hours of operation and odors.

In addition to the City, the State's Department of Environment Protection (NDEP), specifically the Bureau of Air Pollution, has enforcement responsibility, specifically with respect to air quality and odors. In January 2017, NDEP cited the business for failing to notify NDEP of initial startup, and assessed fines of \$1,750. Between January 2017 and March of 2018, NDEP cited the business seven times for violations related to air quality, and assessed fines of \$61,055. NDEP only recently acquired equipment to test odors.

The applicant has provided four inspection reports dated June 14, 2018, August 15, 2018, September 18, 2018, and September 28, 2018 demonstrating compliance with NDEP's regulations. The applicant also provided visual inspection reports dated October 5, 2018.

Tahoe Western Asphalt, the business operator, has made modifications to operations since commencement in order to address air quality and odors. These modifications include:

- Adding a steel roof of the truck load chute area.
- Adding a vent condenser to the oil tank.
- Adding an econ burner analyzer for testing.
- Acquired an Ecosorb odor clarifier.
- Adding a complete water system for dust control over all plant systems.

The asphalt plant is located in an area that was previously known as the Tip Top Pit. It is also located in the Eastern Portal-Virginia & Truckee Railroad Gateway Specific Plan Area. The project site is located on a flat portion of the 26.93 acre site. Currently, aggregate is trucked to the site, and the asphalt is manufactured on the site.

When presented in 2011, staff report stated "Once fully functional the burner-less drum will dedicate a set amount of power to dry material, resulting in virtually no emissions. To power both the asphalt production and aggregate crushing operations, the applicant is proposing to produce its own power with the use of a General Electric 2.5 megawatt wind turbine. In addition to the electricity from the turbine, the plant will also utilize all the heat from the turbine's heat exchanger and the generation set to circulate heat through the bins. The machinery proposed for the asphalt production is a CMI SVM2000 Drum Mix Plant. The asphalt production will have two 150 ton silos that are proposed at 75 feet in height each which will also exceed the 45 foot height limit in the GI zoning district. The applicant will also utilize a mobile aggregate crushing system (MACS)." The staff report also noted that the plant would be powered by a Wind Energy Conversion System, with natural gas serving as a backup power source.

The specified equipment is not the equipment that is being utilized, and the plant is powered by propane.

The Planning Commission may approve the modifications to the Special Use Permit upon making each of the seven required findings in the affirmative. The applicant provided the finding utilized in the January 26, 2011 staff report to the Planning

Commission. Therefore, that report is included in its entirety as it was submitted by the applicant as part of his application.

PUBLIC COMMENTS: Public notices were mailed on September 28, 2018 to 101 property owners in the area. In Carson City, noticing went to 33 property owners within 7500 feet of the property. In Lyon County, noticing was provided based on input by Lyon County planning staff based on its understanding of property owners who would be potentially impacted. One comment in opposition has been received to date. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

OTHER CITY DEPARTMENT OR OUTSIDE AGENCY COMMENTS: The request for expanded hours was routed to various City agencies for comment. No City agencies had comments.

FINDINGS: Staff recommends approval of the expanded hours for the asphalt plant based the findings below, pursuant to CCMC 18.02.080 (Special Use Permits), subject to the recommended conditions of approval, and further substantiated by the applicant's written justification.

1. The use will be consistent with the objectives of the Master Plan elements.

Staff finds the proposed expanded hours will be consistent with the Master Plan, specifically noting the following.

Chapter 3: A Balanced Land Use Pattern

Establishing a balance of land uses within the community promotes vitality and long-term economic stability. A balanced community is able to provide employment opportunities for its residents as well as a diverse choice of housing, recreational opportunities, and retail services. Carson City strives to maintain its strong employment base and extensive network of public lands while increasing housing options and the availability of retail services to serve residents of the City and surrounding growth areas.

Chapter 5: Economic Vitality

Carson City derives its overall health and economic success from its ability to maintain a strong and diverse base of jobs, to provide a supply of varied housing choices for its employees, to provide a range of services and recreational opportunities for residents and visitors, and to generate tourism through the promotion of its unique characteristics and historic amenities. Furthermore, the City recognizes the revitalization of the Downtown as an important component of the community's long-term health and vitality. The Master Plan promotes the continued enhancement of the Downtown and surrounding residential neighborhoods as the focus of the community.

5.1c—Diverse Employment Opportunities

Promote diverse job options and entrepreneurial opportunities for persons interested in full-time or part-time employment or desiring to own their own business.

5.1d—Industrial Specializations

Identify, develop and enhance multiple industrial specializations. Improve opportunities for productive employment in key sectors, including, without limitation, those already present in Carson City.

(V&T-SPA) Land Use Policies

V&T SPA—1.1 Development Quality

Protect the scenic quality of the V&T experience with consideration given for the views from the train route as well as the terminal location by developing and adopting specific design standards for commercial development and public-use development within the V&T-SPA to protect the scenic quality of the V&T route.

The change in hours will not impact the scenic quality of the V & T experience.

V&T SPA—1.2 Zoning

Rezone the private lands in Carson City along Highway 50 East from General Industrial to a commercial designation consistent with the Master Plan Land Use Map.

The subject site is located in the General Industrial zoning district. The use has lawfully established. The request is to modify the hours of operation.

V&T SPA—1.3 View Corridors

Identify critical views of the landfill area from V&T route and adjacent commercial areas and mitigate visual impacts by plantings, screening or other methods around the landfill.

This goal is not applicable; due to the fact the use is not located in the area of the landfill.

V&T SPA—1.4 Compatibility with Adjacent Uses

Prohibit new uses on public lands within the V&T-SPA that would conflict with the V&T and related commercial-tourism in the vicinity, such as uses that generate excessive noise, dust or odors, excluding the continued operation of the landfill; and Consider limiting the use of public lands as part of any proposed disposal of the BLM property into Carson City ownership through a federal lands bill.

This goal is not applicable; due to the fact the use is not located on public lands.

V&T SPA—1.5 Drako Way Vicinity Land Use Change

The land use designation of the property in the vicinity of Drako Way, east of the V&T railroad alignment, shall be changed by Carson City from Industrial to Mixed-Use Commercial and/or Mixed-Use Residential upon removal of the old landfill identified on the site or with approved engineering controls in accordance with NDEP standards upon development of the property.

This goal is not applicable; due to the fact the use is not located in the immediate vicinity of Drako Way or east of the V & T railway alignment.

(V&T-SPA) Parks and Open Space Policies

V&T SPA—2.1 Trail Facilities

The Parks and Recreation will continue to work with the V&T Commission and V&T consultants in locating appropriate trail facilities along the Carson River corridor consistent with the V&T operation plans and the Unified Pathways Master Plan.

This goal is not applicable; due to the fact the use is not located along the Carson River corridor.

(V&T-SPA) Cultural and Environmental Resources Policies

V&T SPA—3.1 Carson River Corridor

Encourage continued cleanup and patrol of the Carson River corridor to protect the scenic resource through partnerships with public and private agencies.

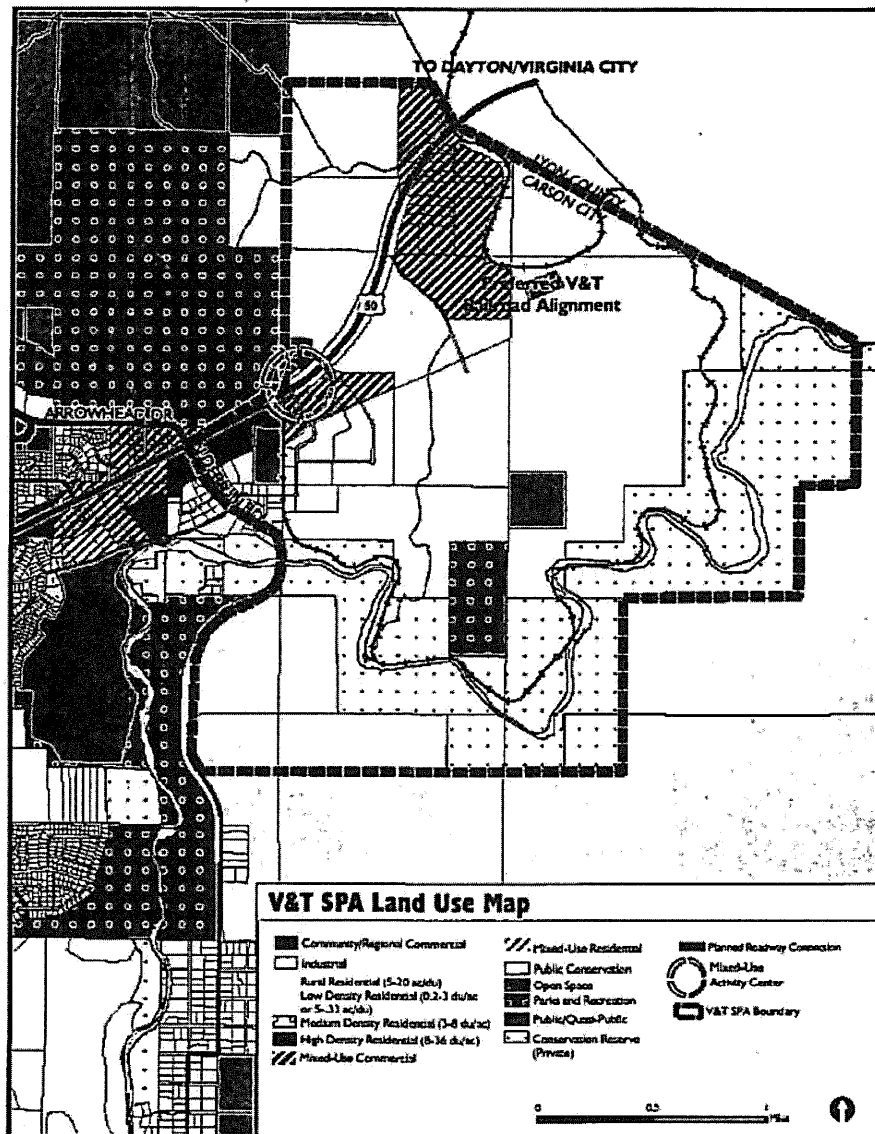
This goal is not applicable; due to the fact the use is not located along the Carson River corridor.

(V&T-SPA) Coordination Policies

V&T SPA—4.1 Coordination

Encourage continued collaboration with Lyon County and Storey County to minimize land use conflicts along the V&T corridor.

The staff has notified Lyon County Planner Rob Pyzel of the request to modify the hours of operation as well as obtained a mailing list from Lyon County of property owners who may be potentially impacted by the change in hours of operation. Sixty eight Lyon County property owners were notified.



- The proposed use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and will cause no noise, vibrations, fumes, odors, dust, glare or physical activity.

The use creates odors. The impact of the odors are primarily on residents to the east of the facility. NDEP staff has explained that the primary source of the odor is Volatile Organic Compounds (VOC's). NDEP staff advised of a similar problem with an asphalt plant in Fernley. In that case, the operator installed a Regenerative Thermal Oxidizer, and there have been no odor complaints in over two years. This equipment is installed after the bag house. Of note, the applicant does not believe a Regenerative Thermal Oxidizer is effective.

Staff also met with Eric Florio, an Air Quality Specialist with the Business Environmental Program at UNR. He conducted independent research, and advised that

there are odor suppressants that are additives to the mix. Based on his research, the two products that are effective suppressants are Ecosorb and Asphalt Solutions. The applicant has acquired Ecosorb, but has not incorporated into his operations.

Other steps that will potentially address the odor, although to what degree of effectiveness is questionable, are:

- Install a roof over the truck loading chute area.
- Install water fogging systems at drop points when material drops to a different part of the equipment and is exposed to air.
- The vent condenser that has been installed must be maintained to address odors.

The staff finds it is necessary to take proactive steps to address odors. As the applicant has acquired the Ecosorb, and the air quality expert that staff consulted with found it to be an effective odor suppressant based on research, staff would recommend a condition of approval that the applicant utilize the Ecosorb that he has acquired, as well as install and maintain the three bulleted items above. Staff further recommends that the Special Use Permit be scheduled for further review in one year so that the effectiveness of the suppressant can be reviewed. The review of the Special Use Permit shall be subject to the noticing requirements identified in CCMC 18.02.045, with the applicant responsible for paying noticing fees.

Furthermore, with respect to hours of operation, staff has consulted with personnel at the Nevada Department of Transportation relative to the road project on Highway 50 from Stage Coach to Silver Springs. It is anticipated that project will be primarily day work as there is a requirement to keep a lane open. Work on South Carson Street will not occur until 2020, and is also anticipated to be primarily day work. Both projects anticipate occasional night work. Therefore, the staff recommends limiting work outside of the approved hours of operation to only 30 times per year. Specifically, staff recommends modification of the hours of operation to:

Monday through Saturday: 6:00 AM – 6:00 PM (startup of equipment 5:30 AM – 6:00 AM, gates open at 6:00 AM); and

Up to 30 evenings or Sundays in a calendar year, with the provision that the applicant must advise the Community Development Director at least seventy two hours in advance of working an evening or a Sunday.

- 3. The project will have little or no detrimental effect on vehicular or pedestrian traffic.**

The modification to the hours of operation will have little effect on vehicular or pedestrian traffic.

- 4. The project will not overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public improvements.**

The proposed change in hours of operation will not overburden existing public facilities or services.

5. **The project meets the definition and specific standards set forth elsewhere in this Title 18 for such particular use and meets the purpose statement of that district.**

The use has lawfully established. The property is zoned General Industrial, and is consistent with the purpose statement of that district.

18.04.150 General Industrial (GI). The GI District is established to preserve an industrial district for uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

6. **The project will not be detrimental to the public health, safety, convenience and welfare.**

With the recommended conditions of approval, particularly the conditions that address odors and the review in one year, staff finds that the modification to the hours of operation as recommended by the staff will not be detrimental to the public health, safety, convenience and welfare.

7. **The project will not result in material damage or prejudice to other property in the vicinity.**

With the recommended conditions of approval, particularly the conditions that address odors and the review in one year, staff finds that the modification to the hours of operation as recommended by the staff will not be detrimental to the public health, safety, convenience and welfare.

Attachments:

Correspondence from Bryan Wagner
Application (SUP-10-115-2)
Supplemental materials provided by the applicant.