



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 February 26, 2020

TO: Planning Commission **Item E-6**

FROM: Hope Sullivan, AICP
Planning Manager

DATE: February 19, 2020

SUBJECT: SUP-10-115-2 For Possible Action: Discussion and possible action regarding the review of a Special Use Permit for an asphalt plant and aggregate crushing facility on property zoned General Industrial, located at 8013 Highway 50 East, APN 008-611-35.

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. In 2018, the Planning Commission approved an amendment to the Special Use Permit. As part of that approval, the Planning Commission requested to review the Special Use Permit in one year to determine the adequacy of the conditions of approval. At its meeting of December 17, 2019, the Planning Commission conducted its one-year review, found the conditions to be inadequate to meet the findings, and modified the conditions. The applicant appealed the Planning Commission decision. Since the Planning Commission December 17, 2019 meeting, the staff has identified new information that it would like to present to the Planning Commission as part of its review of the Special Use Permit. The Planning Commission will conduct a public hearing, and may modify the existing conditions of approval of the Special Use Permit as necessary to meet the required findings of fact.

Recommended motion:

"I move to modify Condition 17 of the Conditions of Approval voted on by the Planning Commission at its meeting of November 19, 2019 to restore it to the condition of approval established on October 24, 2018 to state "*The operator shall utilize Ecosorb in operations to suppress odors.*" and to add Condition 20 to state "*City Code Enforcement staff will monitor off-site odors a minimum of three times a month, and maintain a detailed log. The log will be presented to the Planning Commission at its October 2020 meeting. Notwithstanding this, if City Code Enforcement staff observes odors from the plant in the residential areas of Moundhouse three times, the review of the Special Use Permit will be scheduled for the next available Planning Commission meeting for review of the Special Use Permit.*"

Noticing

On February 7, 2020, notice of the public hearing was mailed to 101 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 February 7, 2020, a letter was hand delivered to Robert Matthews of Tahoe Western Asphalt advising him that this item would be before the Planning Commission at its meeting of February 26, 2020. The same letter was emailed to Mr. Matthews and his attorney on February 7, 2020.

Information Since the November 19, 2019 Meeting

Since the meeting of November 19, 2019, the business owner has filed an appeal of the Planning Commission's decision. At its meeting of February 6, 2020, the Board of Supervisors considered the appeal and, in accordance with the recommendation of staff, referred the matter back to the Planning Commission to give staff the opportunity to provide the Planning Commission with additional information.

Since the meeting of November 19, 2019, City staff has followed up with the staff at the City of Fernley, NV as well as toured the Marathon Petroleum Company facility in Fernley. The City Manager in Fernley verified the information that City staff learned from Nevada Department of Environmental Protection (NDEP) staff. Essentially, the odors from the Fernley plant were overwhelming, the plant installed new equipment (the Regenerative Thermal Oxidizer), and the odors have been substantially eradicated.

On January 9, 2020, City staff met with the manager, and toured the Marathon Petroleum Company facility in Fernley. During this visit, the manager explained that the Regenerative Thermal Oxidizer was the correct equipment for the facility as the facility makes a binder, and is "hot" at all times. This is in contrast to a plant like Tahoe Western Asphalt where the plant is "heated up" when there is an order for asphalt, but is not maintained in a "hot" state at all times. Therefore, staff is no longer recommending the incorporation of a regenerative thermal oxidizer.

Staff cannot recommend how the asphalt plant should be designed and operated. Staff has reached out to other professionals with experience working with asphalt plants to try to understand how to address the odors. The answer is not easy, and it is up to the operator to determine how to design and operate the facility. Rather, staff recommends that the conditions of approval focus on performance criteria. With respect to odors, it is very difficult to identify measures. Therefore, the staff is recommending that between now and the Planning Commission meeting of October 2020, City code enforcement staff visit the residential areas in Moundhouse at least three times a month to determine if there are odors from the asphalt plant. A log will be maintained and provided to the Planning Commission at its October 2020 meeting. If code enforcement observes the odors in the area three times, the Special Use Permit will be scheduled for the next available Planning Commission meeting.

In terms of on-going Code Enforcement, between November 6, 2019 and February 13, 2020, code enforcement has received nineteen complaints, 17 were odor related and 2 were related to hours of operation. Code Enforcement staff visited Moundhouse twice during this time period, and did not detect any odors.

Staff in Lyon County is not aware of any complaints / issues related to Tahoe Western Asphalt since November 6, 2019.

A December 4, 2019 letter from the Chief of the Bureau of Air Pollution Control of NDEP states that Tahoe Western Asphalt's Air Quality Operating Permit is in good standing.

In a February 14, 2020 letter from Jeremy Clarke, representative for Tahoe Western Asphalt (TWA), Mr. Clarke writes "TWA is implementing new equipment which will help the plant run

cleaner and more efficient. These changes will also reduce emissions and any perceived odors. TWA is in the process of drafting the plans with its consultants, which will then be submitted to the NDEP for approval."

On February 18, Robert Matthews of Tahoe Western Asphalt sent a series of graphics to NDEP and to the City, seemingly proposing to add the equipment to the existing systems. NDEP acknowledged receipt of the diagrams, and requested additional information.

Conclusion

Based on new information, staff can no longer recommend the inclusion of the regenerative thermal oxidizer. Staff finds that with respect to odors, a performance measure that odors be controlled is appropriate. The means of determining the adequacy of the odor control is for code enforcement staff to visit the residential areas that are experiencing the odors and determine if the odor can be independently observed.

Attachments:

1. Planning Commission November 18, 2019 Notice of Decision – SUP-10-115-2.
2. Memorandum dated November 6, 2019 from the Planning Manager to the Planning Commission with attachments and late material.
3. Email dated November 19, 2019 from the Supervisor of the Compliance Branch of the Bureau of Air Pollution Control NDEP to the Planning Manager.
4. December 4, 2019 letter from the Chief of the Bureau of Air Pollution Control NDEP to Robert Matthews.
5. Memorandum dated February 13, 2020 from Code Enforcement to the Planning Manager.
6. Email dated February 14, 2020 from Lyon County Senior Planner to the Planning Manager.
7. Email dated February 18, 2020 from Robert Matthews to Planning Manager including diagrams of equipment.
8. Email dated February 18, 2020 from NDEP staff to Robert Matthews commenting on diagrams.
9. Petition submitted by TWA.
10. Letter dated February 14, 2020 from Jeremy Clarke, Simons Hall Johnston representing TWA to the Planning Commission.
11. Email dated February 14, 2020 from NDEP Compliance Inspector to the Planning Manager.
12. Approved Meeting Minutes from Planning Commission meeting of November 19, 2019.



Carson City Planning Division

108 E. Proctor St.
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Planning@carson.org
www.carson.org

★ CLERK ★
FILED
Time 3:05 pm

NOV 20 2019

PLANNING COMMISSION
November 18, 2019

NOTICE OF DECISION – SUP-10-115-2

By Lena E. Bresch
Deputy
Carson City, Nevada

Discussion and possible action regarding the one year review of the approval of a modification to a Special Use Permit on property zoned General Industrial, located at 8013 Highway 50 East, APN 008-611-35.

The Planning Commission conducted a public hearing on November 19, 2019, in conformance with City and State legal requirements and modified SUP-10-115-2 based on the required findings identified in Carson City Municipal Code 18.02.080, and subject to the following modified conditions of approval.

CONDITIONS OF APPROVAL:

Note the base language in these conditions are the conditions of approval approved on October 24, 2018 with SUP-10-115-2. Language proposed to be added appears in bold with an underline. Language proposed to be deleted appears bold 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 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 install and utilize a Regenerative Thermal Oxidizer ~~Ecosorb~~ in operations to suppress odors.
18. This Special Use Permit is subject to review in October 2020 ~~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 7 ayes, 0 nays, 0 absent.



Hope Sullivan, AICP
Planning Manager

HS:lr

HANA DELIVERED

Emailed on: _____ By: _____

**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

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



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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
www.carson.org

★ CLERK ★
FILED

Time 12:46 p.m.

OCT 31, 2018

By T. Warren
Deputy
Carson City, Nevada

PLANNING COMMISSION
October 24, 2018

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

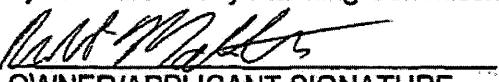
HS:lr

Emailed on: 10/31/2018

By: LR

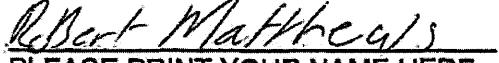
**PLEASE SIGN AND RETURN THIS NOTICE OF DECISION WITHIN
TEN DAYS OF RECEIPT**

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


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

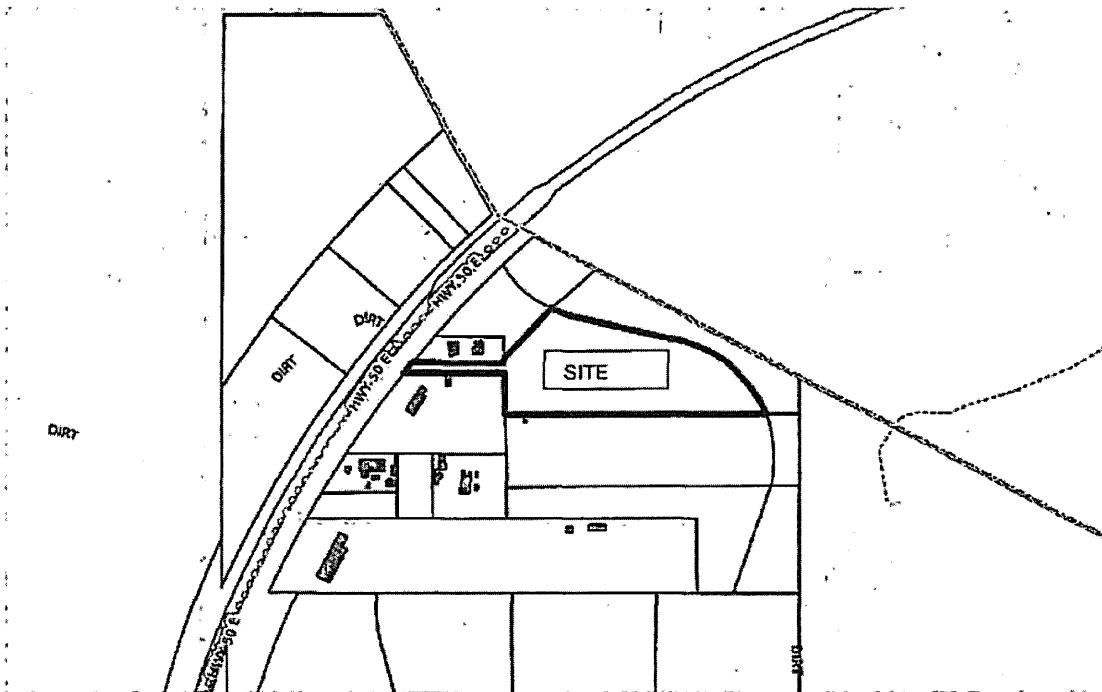
STAFF CONTACT: Hope Sullivan, Planning Manager

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.
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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 form 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 plant 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.

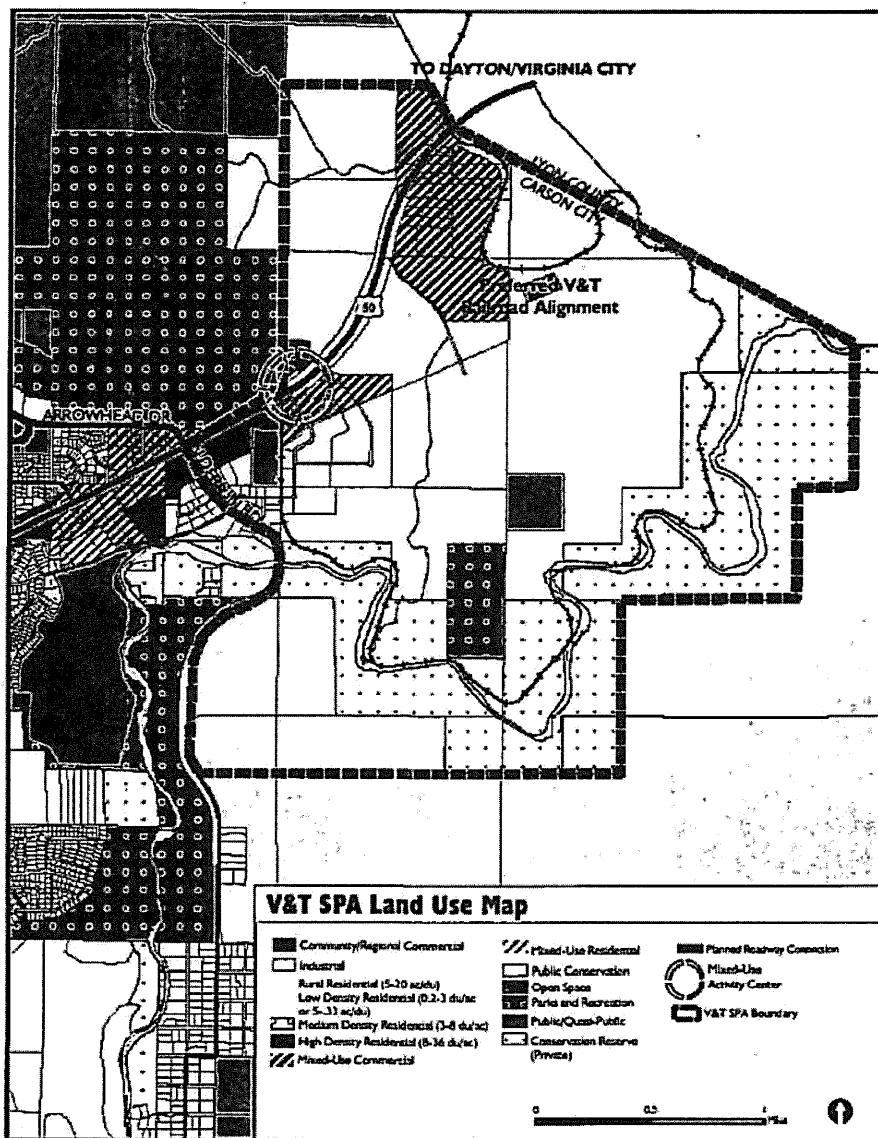
This goal is not applicable; due to the fact the use is not located along the Carson River corridor.

(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.



2. 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 Specialists 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.

HOPE

887-2278 11/18/19

I HAVE THE ORIGINAL PETITION
THAT WAS SIGNED BY THE PEOPLE
HERE IN THE CARSON HIGHLANDS
AGAINST TWA. THERE IS 7 PAGES
INCLUDING THE COVER SHEET,

THANK YOU FOR ALL YOUR HELP!

BOB + JUDY LUCAS

775-246-0351

PG 1 OF 7

LATE MATERIAL

RECEIVED
NOV 18 2019
CARSON CITY PLANNING DIVISION

PC 2017

Petition to Return Air Quality and Stop Noxious Fumes

Petition summary and background

Carson Highlands subdivision is petitioning due to noxious fumes infiltrating and settling in the Carson Highlands subdivision area due to asphalt and asphalt product production from Tahoe West Asphalt, Highway 50, Moundhouse, NV 89706.

We the residents ask for re-evaluation of EPA regulations and/or the Clean Air Act, in regard to proximity to residents/residences to production of material with potential health issues and offer a solution that returns quality of life/air quality to residents.

Petitions will be given to the following for action.

Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

Carson City Board of Supervisors

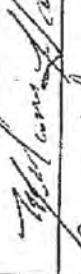
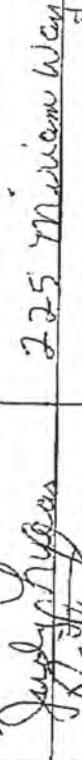
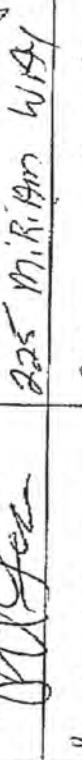
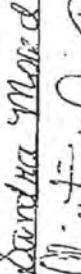
201 N. Carson Street, Suite 2

Carson City, NV 89701

Wimber
NV Clean Air- Bob Wimber (775) 687-9349

I have been a resident of the Carson Highlands for 20+ years as have many of my neighbors as indicated below.

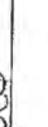
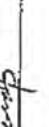
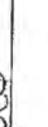
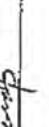
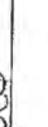
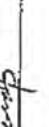
We, the undersigned, are concerned citizens who urge our leaders to act now: We are asking for assistance from our elected and paid officials to work with TWA and the residents of Carson Highlands to resolve this important issue.

Printed Name	Signature	Address	Comment/Years Resident	Date
MEREDITH BROWN		221 Midway Way	7 years	10-18-16
Judy Lucas		225 Midway Way	24 years	10-18-16
Robert Lucas		225 Midway Way	24 years	10-18-16
SANDRA MOAD		221 Midway Way	3 1/2 years	10-18-16
Christine Dixon		233 Midway Way	3 years	10-18-16
David Wilson		213 Midway Way	10 years	10-18-16
Linda Wilson		243 Midway Way	1/2 years	10-18-16

PG 3 of 7

Printed Name	Signature	Address	Comment/Years Resident	Date
Mike Zaccari	Mike Zaccari	245 Miriam Way	1	10-18-16
Mitch Muske	Mitch Muske	222 Miriam Way	15	10-18-16
Richard Smith	Richard Smith	219 Miriam Way	8	10/19/16
George Dossin	George Dossin	209 Miriam Way	7	10/20/16
Betty Goss	Betty Goss	242 Miriam Way	6	10/20/16
Bonnie Schrod	Bonnie Schrod	249 Miriam Way	18	10/20/16
William Arell	William Arell	246 Miriam Way	17	10/20/16
Harold Cary	Harold Cary	new location 200 Miriam Way	3	10/20
Kathy Cary	Kathy Cary	270 Miriam Way	3	10/20
Virginia Stewart	Virginia Stewart	223 Miriam Way	28	10/20
Richard Apicci	Richard Apicci	215 Miriam Way	12	10/25/16
Jonathan James	Jonathan James	213 Miriam	30	10/25/16
AnnaBelle	AnnaBelle	200 Miriam	16 yrs	10-25-16
Darney Whiteway	Darney Whiteway	238 Miriam Way	18 years	2800116
Lesley Whiteway	Lesley Whiteway	238 Miriam Way	18 yrs	10/25/16

Petition to Return Air Quality and Stop Noxious Fumes

Petition summary and background	<p>Carson Highlands subdivision is petitioning due to noxious fumes infiltrating and settling in the Carson Highlands subdivision area due to asphalt and asphalt product production from Tahoe West Asphalt, Highway 50, Moundhouse, NV 89706.</p> <p>We the residents ask for re-evaluation of EPA regulations and/or the Clean Air Act, in regard to proximity to residents/residences to production of material with potential health issues and offer a solution that returns quality of life/air quality to residents.</p> <p>Petitions will be given to the following for action.</p> <p>Nevada Division of Environmental Protection 901 South Stewart Street, Suite 4001 Carson City, Nevada 89701</p> <p>Carson City Board of Supervisors 201 N. Carson Street, Suite 2 Carson City, NV 89701</p> <p>Winnemucca NV Clean Air- Bob Winnemucca (775) 687-9349</p>																																													
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PL 5017

Printed Name	Signature	Address	Comment/Years Resident	Date
IEPER KELLY	IEPER KELLY	399 Tropicana	1	10-22-16
Gerardo Geron	Gerardo Geron	381 Tropicana	4	10-22-16
Reuben Breyer	Reuben Breyer	383 Tropicana	26	10-22-16
David (Gordon) Lefebvre	David (Gordon) Lefebvre	385 Tropicana	16 yrs	10-22-16
John Chonowicz	John Chonowicz	51 MC	Stone	10-22-16
Carl Tafelthorpe	Carl Tafelthorpe	388 Tropicana	1985 (M.D.)	10-22-16
Erica Lefebvre	Erica Lefebvre	392 Tropicana	22 yrs	10-22-16
Clarice Ruzo	Clarice Ruzo	391 Tropicana	4 yrs	10-22-16
Octavio Octavio Suarez	Octavio Octavio Suarez	391 Tropicana	4 yrs	10-22-16
Arnoldo Verchin	Arnoldo Verchin	516 Tropicana	2 yrs	10-22-16
Jeffrich Rodriguez	Jeffrich Rodriguez	907 Highway 101	16 yrs	10-22-16
Eric Rodriguez	Eric Rodriguez	908 Highway 101	20+ yrs	10-22-16
John Tadeusz Maitland	John Tadeusz Maitland	798 Charl Dr	25	10-22-16
Griselda Sepulveda	Griselda Sepulveda	798 Charl Dr.	3	10-22-16
Barbara Anderson	Barbara Anderson	911 Highway (con't)	20 yrs	10-22-16
		291 Highway (con't)	34 yrs	10-22-16

PG 6057

Printed Name	Signature	Address	Comment/Years Resident	Date
Sonya Lee	Sonya Lee	289 Miriam Way	1 yr now in Calif 10 yrs	10-32-16
Leanne DeLois Den Duke	Leanne DeLois Den Duke	286 Miriam Way	8 yrs, off property	10-22-16
David DeLois DeLois	David DeLois	255 Miriam Way	8 yrs. Tom Fivius	10/23/16
Melinda Burka Melinda Burka	Melinda Burka	772 Chari Dr, Sono. Twp.	10-24-16	
Bob Gallina Bob Gallina	Bob Gallina	208 Miriam Way	5 yrs.	10-23-16
Deaura Welch	Deaura Welch	208 Miriam Way	5 yrs	10-23-16
Jacob Martin Jacob Martin	Jacob Martin	801 Clarkin Ln	2 yrs	10-23-16
Daniel Utterick Daniel Utterick	Daniel Utterick	384 + raci: LN	28 yrs	10-23-16
Mariana Sandoval Meza Mariana Sandoval Meza	Mariana Sandoval Meza	281 Miriam Way	22 yrs	10-23-16
19441 Elk Harbor Elk Harbor	19441 Elk Harbor	770 Chart Dr. Miriam	26 yrs	10-25-16
Erica Denner Erica Denner	Erica Denner	403 Tracy Lane, Visalia	11 yrs	10-24-16
Sonya Sandoval Sandoval	Sonya Sandoval	403 Tracy Lane, Visalia	9 yrs	10-24-16
AVID AVID	AVID	407 Tracy Ln	> 1 yr	10-25-16
Anton Anton	Anton	259 Miriam Way	20 yrs	10-26-16
J. A. Tucker J. A. Tucker	J. A. Tucker	620 Jenny LN	25 years	10/26/16
Muskrat Building Muskrat Building	Muskrat Building	1025 Senni Lane	34 years	10/27/16

PG 70F.7

Hope Sullivan

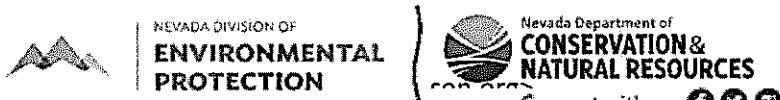
From: Travis Osterhout <travis.osterhout@ndep.nv.gov>
Sent: Tuesday, November 19, 2019 2:33 PM
To: Hope Sullivan
Cc: Nathan Rash
Subject: RE: asphalt TWA

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

Hi Hope,

I believe it would. For example, approximately 4 years ago we had an asphalt storage facility that was located in close proximity to, and upwind of, a downtown area as well as residential homes. We consistently received complaints regarding the asphalt/oil smell from residents. The company worked with our office to add a new RTO to their permit, installed the control, and we have not received any complaints about odors from the facility since.

Travis Osterhout, P.E.
Supervisor
Compliance Branch, Bureau of Air Pollution Control
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
travis.osterhout@ndep.nv.gov
(O) 775-687-9530



Sent: Monday, November 18, 2
To: Travis Osterhout <travis.osterhout@ndep.nv.gov>
Cc: Nathan Rash <nrash@ndep.nv.gov>
Subject: Re: asphalt TWA

Just to confirm - would it address odors that Moundhouse residents are concerned with?

Sent from my iPhone

On Nov 18, 2019, at 6:06 PM, Travis Osterhout <travis.osterhout@ndep.nv.gov> wrote:

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

Hi Hope,

Other facilities that work in asphalt production/storage have installed a Regenerative Thermal Oxidizer (RTO), which is a type of air pollution control equipment designed to decompose volatile organic compounds (VOCs), with large success, in our experience.

Travis Osterhout, P.E.

Supervisor

Compliance Branch, Bureau of Air Pollution Control

Nevada Division of Environmental Protection

Department of Conservation and Natural Resources

901 S. Stewart Street, Suite 4001

Carson City, NV 89701

travis.osterhout@ndep.nv.gov

(O) 775-687-9530

<image007.png>

From: Hope Sullivan <Hsullivan@carson.org>

Sent: Monday, November 18, 2019 4:37 PM

To: Travis Osterhout <travis.osterhout@ndep.nv.gov>

Subject: asphalt TWA

Travis:

I'll go through my paperwork, but was hoping you would know what the piece of equipment is that could be added to the asphalt plant at TWA to address smells.

Thank you!

Hope Sullivan, AICP

Planning Manager

Carson City, NV 89701

775-283-7922



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA

Department of Conservation & Natural Resources

Steve Sisolak, Governor
Bradley Crowell, Director
Greg Lovato, Administrator

December 4, 2019

Robert Matthews
Owner
Tahoe Western Asphalt, LLC
PO Box 21645
Carson City, NV 89721

Re: Status of Class II Air Quality Operating Permit AP161I-3748, FIN A1969 – Tahoe Western Asphalt, LLC

Dear Mr. Mathews:

The Nevada Division of Environmental Protection - Bureau of Air Pollution Control (BAPC) received an email from Tahoe Western Asphalt, LLC (TWA) on December 2, 2019 requesting the compliance status of the TWA facility.

Currently, TWA is in good standing with the above-referenced permit.

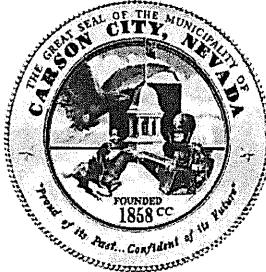
However, please note that since the issuance of the last status letter dated October 16, 2018, the BAPC has received 180 complaints from the public regarding the TWA facility, with a majority of complaints related to odors.

If you have any questions or concerns, please contact me at (775) 687-9336 or lkremer@ndep.nv.gov.

Sincerely,

Lisa Kremer, P.E.
Chief
Bureau of Air Pollution Control

E-Copy: Jeffrey Kinder, P.E., Deputy Administrator, Nevada Division of Environmental Protection
Travis Osterhout, P.E., Supervisor, Compliance Branch, Bureau of Air Pollution Control
FIN A1969



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: February 13, 2020

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 November 06, 2019 forward.

Number of Complaints: 19

Odor complaints = 17
Hours of operation = 2

Notice of Violations:

None

Visits to Mound House:

November 25, 2018 – no odor detected;
November 26, 2019 – no odor detected

Hope Sullivan

From: Rob Pyzel <rpyzel@lyon-county.org>
Sent: Friday, February 14, 2020 11:43 AM
To: Hope Sullivan
Subject: Re: code enforcement?

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Not that I know of.

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 Fri, Feb 14, 2020 at 11:42 AM Hope Sullivan <HSullivan@carson.org> wrote:

Thanks for the reply!

Have you had any complaints / issues since November 6, 2019?

Hope

From: Rob Pyzel [mailto:rpyzel@lyon-county.org]
Sent: Tuesday, February 11, 2020 2:25 PM
To: Hope Sullivan
Subject: Re: code enforcement?

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

Hope Sullivan

From: Robert Matthews <robert.matthews68@gmail.com>
Sent: Tuesday, February 18, 2020 11:30 AM
To: jclarke@shjnevada.com; Hope Sullivan; nrash@ndep.nv.gov; Ashley Taylor
Subject: Fwd: Your Self Service Scan from Office Depot
Attachments: Office Depot Scan.pdf; ATT00001.htm

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

FYI

Sent from my iPhone

Begin forwarded message:

From: Office Depot <noreply1@officedepot.com>
Date: February 18, 2020 at 11:13:14 AM PST
To: "robert.matthews68@gmail.com" <robert.matthews68@gmail.com>
Subject: Your Self Service Scan from Office Depot

From: <noreply1@officedepot.com>

Here is your scanned attachment.

CONFIDENTIALITY NOTICE: The information contained in this email and attached document(s) may contain confidential information that is intended only for the addressee(s). If you are not the intended recipient, you are hereby advised that any disclosure, copying, distribution or the taking of any action in reliance upon the information is prohibited. If you have received this email in error, please immediately notify the sender and delete it from your system.

Flow Diagrams 2

2 Blue Smoke

2 A Silo top

18" Outwork

Batcher

Drag slat top

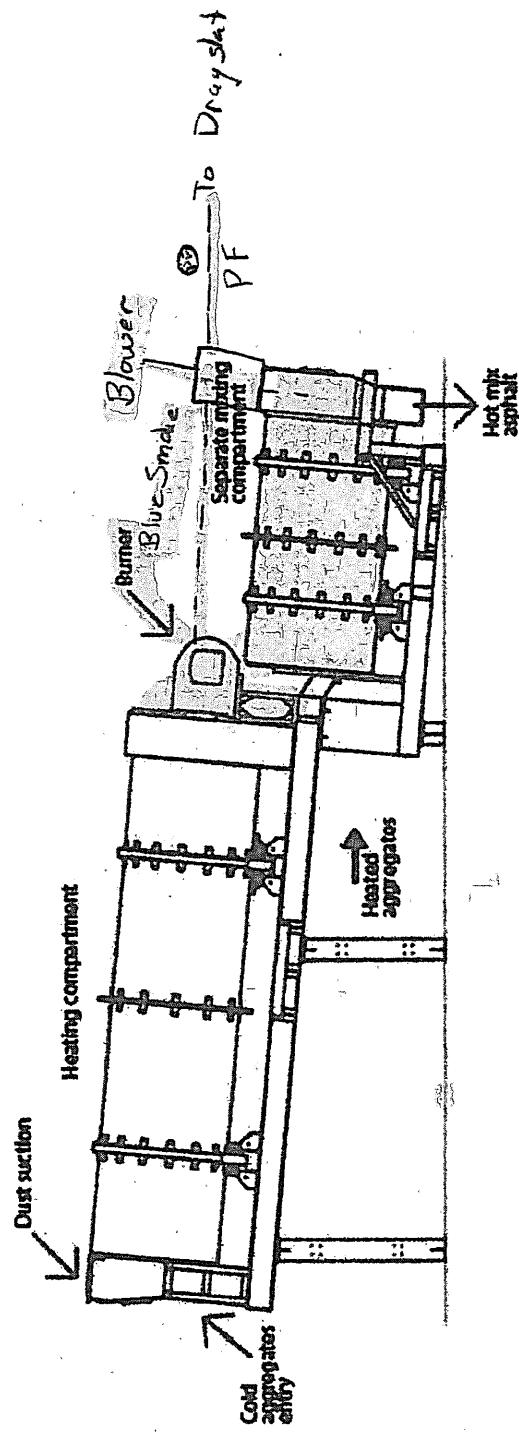
Load out

2 B Blower (fan) 5000 CFM

Mixer drop point

Burner Balthead (Secondary fan mix)

N [60]



2 A

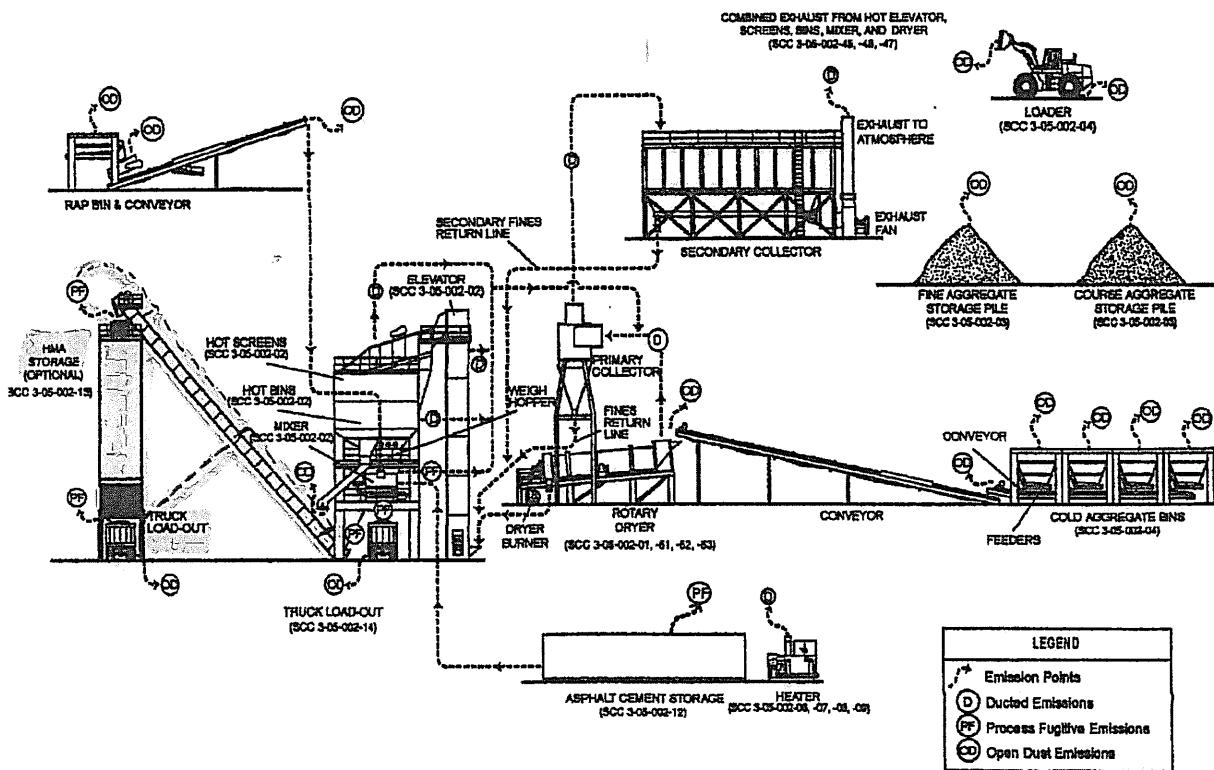


Figure 11.1-1. General process flow diagram for batch mix asphalt plants (source classification codes in parentheses).³

Hope Sullivan

From: Tanya Soleta <tsoleta@ndep.nv.gov>
Sent: Tuesday, February 18, 2020 1:46 PM
To: 'robert.matthews68@gmail.com'
Cc: Nathan Rash; Travis Osterhout; 'jclarke@shjnevada.com'; Hope Sullivan
Subject: NDEP-BAPC Review of Documents in Regards to New Components

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

Good Afternoon Mr. Matthews,

We have received and reviewed your submittal of 2/18/2020 consisting of several flow diagrams. However, we still need additional information in order to determine if a revision application is needed prior to installation of the new components. Specifically the remaining items mentioned in Ashley Taylor's letter dated 1/13/2020, which consist of the following items:

- A summary of existing and proposed emissions,
- Stack parameters for new equipment; including dimensions, flowrate, temperature, etc.
- Manufacturer's specifications/guarantees for any new equipment when utilized to justify emission calculations.
- Detailed emission calculations for all new or modified equipment.

Once we receive these items we can make our determination as to whether a revision is necessary. Also please be aware that Ashley Taylor is on maternity leave until the end of March, and in her absence I will be reviewing all materials related to permitting.

Regards,

Tanya Soleta
Supervisor
Permitting Branch, Bureau of Air Pollution Control
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
tsoleta@ndep.nv.gov
(o) 775-687-9540



From: Robert Matthews <robert.matthews68@gmail.com>
Sent: Tuesday, February 18, 2020 11:30 AM
To: jclarke@shjnevada.com; Hsullivan@carson.org; Nathan Rash <nrash@ndep.nv.gov>; Ashley Taylor



<u>Kendria Koch</u>	<u>2/11/20</u>	<u>925 499 1064</u>
Name	Date	Email Address
Have you experienced air quality issues Yes <u> </u> No <u> X </u>		
on a regular basis? (Check yes/no)		
<u>Kathie Pitts</u>	<u>2/11/20</u>	<u>(408) 209-2631</u>
Name	Date	Email Address
Have you experienced air quality issues Yes <u> </u> No <u> X </u>		
on a regular basis? (Check yes/no)		
<u>Hope Larson</u>	<u>2/11/2020</u>	<u>(408) 761-7555</u>
Name	Date	Email Address
Have you experienced air quality issues Yes <u> </u> No <u> X </u>		
on a regular basis? (Check yes/no)		
<u>Aaron Hobson</u>	<u>2/11/2020</u>	<u>775-350-9035</u>
Name	Date	Email Address
Have you experienced air quality issues Yes <u> </u> No <u> X </u>		
on a regular basis? (Check yes/no)		
<hr/>		
<u>Tim Pitts</u>	<u>2/11/2020</u>	<u>Tim Pitts 91@yah0.com</u>
Name	Date	Email Address
Have you experienced air quality issues Yes <u> </u> No <u> X </u>		
on a regular basis? (Check yes/no)		
<u>Fred Bechtold</u>	<u>2/11/2020</u>	<u>freddy19775@gmail.com</u>
Name	Date	Email Address
Have you experienced air quality issues Yes <u> </u> No <u> X </u>		
on a regular basis? (Check yes/no)		



Tahoe Western Asphalt, based here in Carson City, has recently received complaints related to air quality issues. We, as a locally based company, are reaching out to members of the community with interest over whether citizens of Carson City and the surrounding areas have or have not experienced air quality issues.

We take this issue very seriously and value each and every citizen who takes the time to leave feedback. Thank you very much again for your time, and we look forward to continuing our dedicated service to Carson City and the surrounding areas.

Robert Matthews

Dru Sutton

Name

2/11/2020

Date

775-857-5538

Email Address

10 Cash rec.

Have you experienced air quality issues Yes No X

on a regular basis? (Check yes/no)

Amelia Glenn

2/11/20

Name

daytanglenns@hotmail.com

Date

Email Address

775 691-4922

Have you experienced air quality issues Yes No X

on a regular basis? (Check yes/no)

Luis Wetzel

2/11/20

Name

harendewetzel51@hotmail.com

Date

Email Address

Have you experienced air quality issues Yes No X

on a regular basis? (Check yes/no)

Wherry Moore - Foster

2/11/20

Name

Mr. Moors15@gmail.com

Date

Email Address

Have you experienced air quality issues Yes No X

on a regular basis? (Check yes/no)



Roberth W

Name

2-11-20

Date

559-246-8292

Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Shan Gaffis

2-11-20

Date

wingaviator@yahoo.com

Email Address

Name

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Andrew Larsen

2-11-20

Date

775-350-9374

Email Address

Name

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Jacob Kitchell

2/11/20

Date

775 220 3933

Email Address

Name

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Spencer Pearce

02/11/20

Date

DroptofMazdarati@gmail.com

Email Address

Name

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Brandy Neale

02/11/2020

Date

bsurfingbird@aol.com

Email Address

Name

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Jeremy Stark

2/11/2020

Date

Devil666Pony/moon@gmail.com

Email Address

Name

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)



<u>SAGE TWO</u>	<u>2-10-20</u>	<u>SAGE2TWO@GMAIL.COM</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<u>Robert Angelinian</u> <u>2-10-20</u>		<u>ChuckForest@gmail.com</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<u>Robert Angelinian</u> <u>2-10-20</u>		<u>(408) 903-7048</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<u>Steven Kohler</u> <u>2-11-2020</u>		<u>skohler0113@gmail.com</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<u>Triston Finney</u> <u>2-11-20</u>		<u>775-409-8866</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<u>Dominique Hayes</u> <u>2-11-20</u>		<u>775-400-0868</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<u>Travis Pitts</u> <u>2-11-20</u>		<u>408-605-7053</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<u>Antoinette Estrada</u> <u>2/11/20</u>		<u>aceantoinette@gmail.com</u>
Name	Date	Email Address
Have you experienced air quality issues on a regular basis? (Check yes/no)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>



Tahoe Western Asphalt, based here in Carson City, has recently received complaints related to air quality issues. We, as a locally based company, are reaching out to members of the community with interest over whether citizens of Carson City and the surrounding areas have or have not experienced air quality issues.

We take this issue very seriously and value each and every citizen who takes the time to leave feedback. Thank you very much again for your time, and we look forward to continuing our dedicated service to Carson City and the surrounding areas.

Robert Matthews

A handwritten signature of Robert Matthews.

Name

7-13-20

Date

teddurrer@schwans.com

Email Address

Have you experienced air quality issues Yes No

on a regular basis? (Check yes/no)

A handwritten signature of Turi McIntosh.

7-13-20

turomcintosh@gmail.com

Email Address 62 Pecan Park Rd, Minden, NV 89423

Have you experienced air quality issues Yes No

on a regular basis? (Check yes/no)

A handwritten signature of Judy Grants.

7-13-20

707-206-8701

Date

Email Address

Have you experienced air quality issues Yes No

on a regular basis? (Check yes/no)

A handwritten signature of Mark Jorj.

7-13-20

775-790-2572

Date

Email Address

Have you experienced air quality issues Yes No

on a regular basis? (Check yes/no)



Tahoe Western Asphalt, based here in Carson City, has recently received complaints related to air quality issues. We, as a locally based company, are reaching out to members of the community with interest over whether citizens of Carson City and surrounding areas have or have not experienced air quality issues.

We take this issue very seriously and value each and every citizen who takes the time to leave feedback. Thank you very much again for your time, and we look forward to continuing our dedicated service to Carson City and the surrounding areas.

Robert Matthews

Name

Date

Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Name

Date

Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Alex Vega

Date

Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Donald Gexton

Date

Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)



775-790-1460

Tim Jackson

Name 2-13-20 Date timjimini@hotmail.com Email Address

Have you experienced air quality issues Yes No X
on a regular basis? (Check yes/no)

John Brice

Name 2-13-20 Date info@allameri.ca.caab.com Email Address

Have you experienced air quality issues Yes ✓ No
on a regular basis? (Check yes/no)

Sharon Lomo

Name 2-13-20 Date sharonmarieimus@reagan.com Email Address

Have you experienced air quality issues Yes No X
on a regular basis? (Check yes/no)

Scotty Warkman

Name 2-13-20 Date 775-291-0F45 Email Address

Have you experienced air quality issues Yes No X
on a regular basis? (Check yes/no)

Leon Bourne

Name 2-13-20 Date (415) 505-8521 Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Name

Date

Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

Name

Date

Email Address

Have you experienced air quality issues Yes No
on a regular basis? (Check yes/no)

SIMONS HALL JOHNSTON

February 14, 2020

VIA EMAIL ONLY: Planning@carson.org

Planning Division
108 E. Proctor Street
Carson City, Nevada 89701

RE: *Tahoe Western Asphalt, LLC, - Notice of Decision – SUP-10-115-2*

Planning Commission:

As you are aware, this law firm has been retained to represent Tahoe Western Asphalt, LLC ("TWA") with respect to its appeal of the November 20, 2019, Notice of Decision – SUP-10-115-2 and the improper investigation that was stayed pending action by the Board of Supervisors during the February 6, 2019, meeting. We are in receipt of your letter dated February 7, 2020.

Your letter states, "Consistent with the Board's action, the review of the subject special use permit is being noticed for the Planning Commission's meeting of February 26, 2020." You go on to state that "Any information you would like staff to consider in providing a recommendation to the Commission must be submitted by noon, on February 14, 2020." These statements are extremely problematic as it appears the Planning Commission has a predetermined agenda to institute additional arbitrary and capricious conditions making it impossible for TWA to comply with its Special Use Permit 10-115-2 ("SUP").

Further, the Planning Commission contends it will be "reviewing" TWA's SUP without: (1) an investigation even starting, (2) allowing the investigation to conclude and (3) without obtaining objective and/or scientifically based findings of fact and conclusions. The Planning Commission only allowed five (5) business days for TWA to formulate a response to the Planning Commission's "review" – this is extremely prejudicial to TWA. Please consider the following points and considerations which demonstrate TWA has complied with all governmental requirements and will continue with its lawful business operations.

1. CONDITIONS OF SUP.

As you know, TWA has fully complied with all conditions of its SUP. TWA has further complied with all requirements of the Nevada Department of Environmental Protections ("NDEP"). See December 4, 2019, Letter from Lisa Kremer, Chief of the

6490 S. McCarran Boulevard, Suite F-46 Reno, NV 89509
Phone 775-785-0088 Fax 775-785-0087 Website SHJNevada.com

Bureau of Air Pollution Control – NDEP. TWA has operated during the appropriate hours. TWA has employed Ecosorb to suppress odors. TWA also successfully implemented all other conditions identified in the October 29, 2018, Notice of Decision (obtained all appropriate permits, roof, water fogging systems, vent condenser, etc.). Thus, there is no objective or reasonable basis to modify TWA's SUP or institute an investigation into TWA's compliance with the SUP.

2. INITIATION OF VENDETTA.

While TWA is absolutely certain a small minority of nearby residents are improperly attempting to use the local government to shut its operations down, it appears the Planning Commission is complicit in pursuing this unlawful objective. As identified in the December 17, 2019, meeting, there were **226 complaints** made by residents in 2019. **95% of those complaints were made by five (5) people** (the "Complainers"). The Planning Commission is welcome to verify the statistics, however, as will be produced, TWA has secured dozens of signatures from nearby residents who confirmed no odors are emanating from TWA's operations and have no complaints regarding odors or other air quality issues.

As you know, there has been no other evidence, objective or otherwise, presented justifying the Planning Commission's actions against TWA. Your previous investigations specifically found that "given a lack of substantiated concerns, staff is not recommending any further action."

In addition, the Complainers allege they are afraid of health issues, yet they have provided no evidence of health problems to date. The Complainers complain of odors in the middle of the night, yet this is an outright fabrication which TWA can prove to a certainty – TWA does not operate at night. The Complainers say TWA is "mean" – is that a basis to shut down TWA? These unsubstantiated complaints do not merit modifications to TWA's SUP nor do they warrant an investigation.

3. PLANNING COMMISSION'S IMPROPER CONDUCT.

A. Regenerative Thermal Oxidizer.

It is not clear from your letter or the February 26, 2020, Planning Commission Agenda what exactly the Planning Commission is going to review. The last time the Planning Commission "reviewed" TWA's SUP on November 19, 2019, the Planning Commission implemented an improper condition requiring TWA to purchase and install a \$2,000,000 regenerative thermal oxidizer ("RTO"). This action by the Planning Commission was entirely improper as TWA was provided no notice or an opportunity to be heard on this issue. Further, this conduct demonstrates the Planning Commission's true motive of putting TWA out of business.

6490 S. McCarran Boulevard, Suite F-46 Reno, NV 89509
Phone 775-785-0088 Fax 775-785-0087 Website SHJNevada.com

Supporting this conclusion, on February 6, 2020, Hope Sullivan admitted to the Board of Supervisors that the RTO was the wrong piece of equipment. In a phone conversation with the undersigned on February 7, 2020, Ms. Sullivan further admitted that she lacks the technical expertise to recommend any pieces of equipment for TWA. Not only did your improper RTO condition cost TWA thousands in legal and consulting fees, but the Planning Commission implemented the RTO condition without any technical or scientific basis whatsoever. TWA is appropriately concerned that the Planning Commission will similarly institute another arbitrary and capricious condition on TWA's SUP.

B. Baseless Investigation.

Now, the Planning Commission has initiated an investigation into whether TWA has complied with the conditions of the SUP. However, outside of five (5) people (the Complainers) making over 215 complaints in 2019, there are no other independent or objective facts or information justifying an investigation by the Planning Commission. The NDEP indicated TWA is in full compliance with the SUP. Ms. Sullivan¹ drafted a memorandum dated November 6, 2019, stating, "the threshold for a violation has not been met." She further noted that Lyon County had not received any recent complaints and critically, "Given a lack of substantiated concerns, staff is not recommending any further action."

What changed between November 2019, and December 17, 2019? Nothing. The Complainers kept complaining and TWA continued complying with its legal obligations under the SUP and NDEP guidelines. There is no basis for an investigation.

Equally concerning is the Planning Commission's blatant disregard of NAC 445B.22087(2). This provision mandates the "director shall investigate an order when 30 percent or more of a sample of the people exposed to it believe it to be objectionable . . ." In reading this code provision, two problems are apparent: (1) Ms. Sullivan indicated to TWA that she is currently running the investigation (which has not even commenced according to the December 17, 2019, Planning Commission meeting); and (2) the Planning Commission has not met its threshold of demonstrating 30 percent or more of a sample of the people exposed believe the odor to be objectionable.

In addition, the above code provision states the "director shall investigate," not the Planning Manager. Carson City has no objective odor standards by which to measure emissions and odors. How is Carson City going to determine whether TWA should modify its plant and how is TWA supposed to monitor its compliance? These

¹ TWA is informed that Ms. Sullivan has been investigating TWA for over a year, dating back to October 2018, without the Planning Division having publicly approved of an investigation until December 17, 2019.

standards are identified by NDEP – which TWA is required to comply with pursuant to the condition of the SUP. The Planning Commission does not need to waste time and resources monitoring compliance with the NDEP's guidelines, that is the function of the NDEP. Thus, requiring additional conditions upon TWA's SUP would be arbitrary, capricious and without any evidentiary basis.

C. Investigation or Revocation?

On February 6, 2020, during the Board of Supervisors meeting, Ms. Sullivan stated multiple times on the record that the Planning Commission has started the “process of revocation.” Based on these statements, it appears the Planning Commission already reached the conclusion that its objective is to revoke TWA's SUP despite the fact that the investigation has not commenced. Ms. Sullivan's statements to the Board of Supervisors are obviously highly alarming and demonstrate the Planning Commission's clear intent to revoke TWA's SUP. This blatant bias on behalf of the Planning Commission is egregious and TWA will not permit the Planning Commission to sidestep the fundamental principles of due process and equal protection in order to further its own hidden agenda or the agenda of the Complainers.

This highlights the glaring problem with the Planning Commission's actions: it continually puts the cart before the horse. First, when analyzing Carson City Municipal Code 18.02.08(5), the Planning Commission should develop and adhere to an objective and scientific standard of review rather than solely relying on the Complainers. This conclusion is magnified by Ms. Sullivan's admission that she could not substantiate any complaints against TWA. Second, once the Planning Commission identifies an objective standard of review, the Director should then initiate and conduct an investigation into whether modifying the SUP conditions in accordance with NAC 445B.22087 is appropriate. Then, if the Director determines the conditions should be modified, the Director should consult with an independent and objective third-party possessing the necessary technical expertise to recommend the equipment and processes which are actually appropriate for TWA's plant. Revocation should not even be discussed as TWA is in full compliance with its SUP conditions and NDEP regulations. The Planning Commission should not continue “reviewing” TWA's SUP and existing conditions without the investigation even starting, let alone concluding.

4. TWA'S PROACTIVE SOLUTIONS.

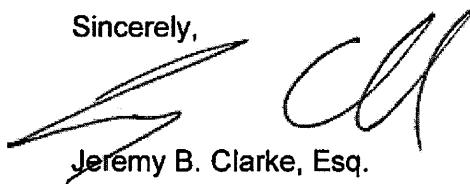
As was presented to the Board of Supervisors and Ms. Sullivan, TWA is implementing new equipment which will help the plant run cleaner and more efficient. These changes will also reduce emissions and any perceived odors. TWA is in the process of drafting the plans with its consultants, which will then be submitted to the NDEP for approval. Once approved by the NDEP, it will install the new equipment. This ongoing process cannot be completed overnight. TWA simply requests that the

February 14, 2020
Planning Division
Page 5

Planning Commission cooperate in this process, rather than implementing arbitrary, capricious and premature conditions denying my client of due process rights. TWA, the Planning Commission and the Complainers should all want the same thing: for TWA to run a clean and efficient plant all while minimizing the effects on its neighbors and the environment. Please allow TWA to get to the finish line without unnecessary interference.

Should you have any questions, please do not hesitate to contact me directly.

Sincerely,



Jeremy B. Clarke, Esq.

JBC/kr
cc: Robert Matthews

6490 S. McCarran Boulevard, Suite F-46 Reno, NV 89509
Phone 775-785-0088 Fax 775-785-0087 Website SHJNevada.com

Hope Sullivan

From: Nathan Rash <nrash@ndep.nv.gov>
Sent: Friday, February 14, 2020 1:19 PM
To: Hope Sullivan
Cc: Travis Osterhout; Lisa Kremer
Subject: RE: TWA

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,

It depends what the facility modifications are. If TWA is proposing to add an air pollution control, meaning a system or device whose primary function is the reduction of regulated air pollutants (i.e. enclosing the drop area or utilizing a carbon filter, as you mentioned), a permit revision is not needed to make the modification. TWA would be required to notify NDEP of the modification in writing. NDEP will respond to the notification and the modification(s) will be incorporated into the air quality operating permit during the next renewal cycle.

However, if TWA is proposing to add equipment that emits or has the potential to emit any regulated air pollutant (i.e. burners, mixing drums, vaporizers, cyclones, duct work and fan for recirculation system, etc.), the facility needs to either: 1) submit a request for a Construction or Modification Determination, with all applicable requirements of the proposed changes, for NDEP's review. NDEP will then determine if a revision is required or if TWA can proceed without a revision; or 2) submit an application for a revision. Permit revisions take approximately 70 days to process. In both cases, NDEP approval must be given prior to installation and operation of new emission units.

I hope this helps,

Nathan Rash
Compliance Inspector



nrash@ndep.nv.gov
(O) 775-687-9358



From: Hope Sullivan <HSullivan@carson.org>

Sent: Monday, February 10, 2020 4:24 PM

To: Nathan Rash <nrash@ndep.nv.gov>

Subject: TWA

Nate:

I have a question that I think is general. If the operator of TWA wanted to add equipment that would address odors such as enclosing the drop area or utilizing a carbon filter, will that require an amendment to his permit with NDEP? I want to understand if he is somewhat handcuffed from making any improvements until the NDEP permit is amended, or if he is allowed to make improvements outside of his permit.

LMK & thanks!

Hope Sullivan, AICP

Planning Manager

Carson City, NV 89701

775-283-7922

MINUTES
Regular Meeting
Carson City Planning Commission
Tuesday November 19, 2019 • 3:30 PM
Community Center Sierra Room
851 East William Street, Carson City, Nevada

Commission Members

Chair – Mark Sattler	Vice Chair – Charles Borders, Jr.
Commissioner – Alex Dawers	Commissioner – Paul Esswein
Commissioner – Teri Preston	Commissioner – Hope Tingle
Commissioner – Jay Wiggins	

Staff

Lee Plemel, Community Development Director
Hope Sullivan, Planning Manager
Ben Johnson, Deputy District Attorney
Steven Pottéy, Engineering Project Manager
Heather Ferris, Associate Planner
Tamar Warren, Senior Deputy Clerk

NOTE: A recording of these proceedings, the board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record. These materials are on file in the Clerk-Recorder's Office, and are available for review during regular business hours.

An audio recording of this meeting is available on www.Carson.org/minutes.

A. ROLL CALL, DETERMINATION OF QUORUM, AND PLEDGE OF ALLEGIANCE

(3:29:05) – Chairperson Sattler called the meeting to order at 3:29 p.m. Roll was called. A quorum was present. Commissioner Borders led the Pledge of Allegiance.

Attendee Name	Status	Arrived
Chairperson Mark Sattler	Present	
Vice Chair Charles Borders, Jr.	Present	
Commissioner Alex Dawers	Present	
Commissioner Paul Esswein	Present	
Commissioner Teri Preston	Present	
Commissioner Hope Tingle	Present	
Commissioner Jay Wiggins	Present	

B. PUBLIC COMMENTS

(3:30:00) – Chairperson Sattler entertained public comments; however, none were forthcoming.

C. POSSIBLE ACTION ON APPROVAL OF MINUTES – August 22, 2019 and September 26, 2019, workshop minutes, and the September 25, 2019 regular meeting minutes.

(3:30:20) – Chairperson Sattler entertained comments or motions.

(3:30:42) – **MOTION:** Vice Chair Borders moved to accept the minutes of the September 25, 2019 Planning Commission [regular meeting] minutes. The motion was seconded by Commissioner Esswein. Motion carried 7-0-0.

(3:31:08) – **MOTION:** Vice Chair Borders moved to approve the minutes of the August 22, 2019 Planning Commission Workshop minutes. The motion was seconded by Commissioner Tingle. Motion carried 6-0-1 with Commissioner Esswein abstaining as he was not present at the workshop.

(3:31:36) – Commissioner Dawers noted that he was absent from the September 26, 2019 Planning Commission Workshop and wished to have the correction reflected in the minutes.

(3:31:58) – **MOTION:** Commissioner Tingle moved to approve the minutes of the September 26, 2019 Planning Commission Workshop minutes as corrected. The motion was seconded by Commissioner Esswein. Motion carried 6-0-1 with Commissioner Dawers abstaining as he was not present at the workshop.

D. MODIFICATION OF AGENDA

(3:32:22) – Ms. Sullivan indicated that there were no proposed changes to the agenda; however, she noted that an applicant was not yet present which might result in taking an agenda item out of order.

E. PUBLIC HEARING MATTERS

E.1 SUP-19-169 – FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW A BEAUTY SHOP ON PROPERTY ZONED GENERAL OFFICE (GO), LOCATED AT 504 EAST MUSSER STREET, APN 004-181-03.

(3:32:58) – Chairperson Sattler introduced the item. Ms. Ferris presented the agenda materials. There were no questions from the Commissioners.

(3:35:27) – Applicant Caresse Williams noted her agreement with the conditions of approval. There were no questions to the applicant. Chairperson Sattler entertained public comments.

(3:36:30) – Jennifer Hilderbrand introduced herself as the property manager and noted that she was in favor of the Special Use Permit. Ms. Hilderbrand; however, was concerned with the cost of upgrading the ADA ramp due to a high bid she had received, and wished to know if the City could help with the cost.

(3:37:38) – Mr. Pottéy noted that he would defer the item to the City Engineer and responded to clarifying questions. Ms. Ferris believed that Condition #5 could read as follows:

“Prior to commencing use, the applicant shall upgrade the pedestrian curb ramp at the corner of East Musser Street and North Valley Street to meet current ADA standards to the satisfaction of the City Engineer.”

(3:38:18) – Discussion ensued regarding the current ADA ramp and whether the City had plans to upgrade it. Ms. Sullivan believed that the revised Condition #5 by Ms. Ferris was “the best flexibility Staff can offer now”. There were no additional comments. Chairperson Sattler entertained a motion.

(3:44:38) – MOTION: I move to approve Special Use Permit SUP-19-169 based on the findings and subject to the conditions of approval contained in the staff report including the amendment to Condition #5 [per the discussion above].

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Sattler
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.2 SUP-19-083-1 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO A SPECIAL USE PERMIT FOR OUTDOOR STORAGE TO ALLOW FOR PERSONAL STORAGE WITHIN AN ENCLOSED BUILDING ON PROPERTY ZONED GENERAL COMMERCIAL AND PUBLIC REGIONAL, LOCATED ON THE WEST SIDE OF AIRPORT ROAD, SOUTH OF BUTTI WAY, APN 010-041-76.

(3:45:18) – Chairperson Sattler introduced the item. Ms. Sullivan gave background, and presented the Staff Report with accompanying documents. She also highlighted the modified conditions of approval. There were no Commissioner or public comments.

(3:48:25) – Applicant representative Mike Vicks of Monte Vista Consulting acknowledged reading and being in agreement with the conditions of approval outlined in the Staff Report. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(3:49:05) – MOTION: I move to approve SUP-19-083-1 to amend SUP-19-083 based on findings and subject to conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Preston
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.3 SUP-18-111-1 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO A SPECIAL USE PERMIT FOR A GAMING (UNLIMITED) USE TO ALLOW AN INCREASED BUILDING SIZE, A MODIFIED FAÇADE,

AND A MODIFIED SITE PLAN ON 0.98± ACRES ZONED RETAIL COMMERCIAL, LOCATED AT 2811 S. CARSON STREET, APN # 009-112-25.

(3:49:43) – Chairperson Sattler introduced the item. Ms. Sullivan gave background and presented the agenda materials which are incorporated into the record and recommended approval, noting that they were made the seven required findings for the modifications. She also clarified for Commissioner Esswein that the footprint would change; however, the site plan would stay the same. She also acknowledged the presence of applicant representative Mike Railey of the Christy Corporation.

(3:52:54) – Mr. Railey introduced himself and noted that both he and the applicant were in agreement with the conditions of approval stated in the Staff Report. There were no Commissioner or public comments; therefore, Chairperson Sattler entertained a motion.

(3:53:30) – MOTION: I move to approve SUP-18-111-1, a request for an amendment to SUP-18-111, based on the findings and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Esswein
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.4 SUP-19-162 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW FOR A 6-FOOT TALL WALL WITHIN 5 FEET OF THE PROPERTY LINE ON THE STREET SIDE-YARD OF A PROPERTY, ZONED MULTI-FAMILY APARTMENT (MFA), LOCATED AT 150 EAST ROLAND STREET, 009-197-02.

(3:54:05) – Chairperson Sattler introduced the item. Ms. Sullivan gave background, presented the Staff Report with the accompanying documentation, and responded to clarifying questions. She also referenced the late material presented into the record, noting that the applicant had worked with Development Engineering and had found that the right-of-way on Roland Street was wider than necessary; therefore, a five-foot strip of street may be abandoned and landscaping may be a way of softening the six-foot fence. Ms. Sullivan recommended modifications to approval items eight and nine per her memorandum, and suggested landscaping to obscure the fence or wall, in addition to the suggested abandonment. Vic Chair Borders received confirmation that “the landscape almost negates what the fence is made of”.

(4:00:00) – Applicant Representative Rachael Kryder of Resource Concepts, Inc. noted her acceptance of the Conditions of Approval outlined in the Staff Report. Commissioner Wiggins inquired about the transition of the fencing from the existing development to the current development, and Ms. Kryder noted that they had not addressed it yet; however, she believed that “the landscaping should soften [the transition] as well.” Commissioner Dawers was informed that the wall will be the back wall of the yards

for the ten units that back into Roland Street. Chairperson Sattler referenced a letter inquiring about the fence, and incorporated into the record, and entertained public comments; however, none were forthcoming. Ms. Sullivan informed Vice Chair Borders that this Commission would improve the previously-discussed abandonment, should it be considered.

(4:03:42) – MOTION: I move to approve SUP-19-162 based on the ability to make the required findings and subject to the conditions of approval.

RESULT:	APPROVED (7-0-0)
MOVER:	Borders
SECONDER:	Tingle
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.5 SUP-19-164 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A RESIDENTIAL USE IN A NON-RESIDENTIAL ZONING DISTRICT TO CONSTRUCT 126 APARTMENT UNITS ON A 6.13-ACRE PARCEL ZONED NEIGHBORHOOD BUSINESS (NB), LOCATED ON THE SOUTH SIDE OF LITTLE LANE, WEST OF JANAS WAY, APN 004-015-06.

(4:04:14) – Chairperson Sattler introduced the item. Ms. Sullivan entertained disclosures. Commissioner Dawers noted that his company, Superior Door and Window, was a bidder on part of the project for one of the contractors on the item; therefore, he would abstain from voting due to a disqualifying conflict. Commissioner Preston disclosed that as a commercial real estate agent for Coldwell Banker Select, and has occasionally co-listed property with an agent of the applicant; however, she noted that they do not share “offices or staff” and are independent contractors. Commissioner Preston also noted that she did not have a co-listing on the project and would not receive any compensation; however, she was “making this disclosure in the best interest and transparency” and that she would be voting on the item as she did not have a disqualifying conflict.

(4:06:32) – Ms. Sullivan presented the Staff Report and the accompanying documents and recommended approval since Staff was able to make the seven required findings in the affirmative. She also noted that applicant representative and project architect Terry Novak was present and ready to answer questions. In response to a question by Commissioner Tingle, Mr. Pottéy explained that the FEMA submission would occur after the City’s Storm Water Engineer reviews the applicant’s flood zone analysis and proposed changes. Commissioner Tingle expressed concern over the traffic on Little Lane and Saliman Road, and Mr. Pottéy believed that the impact study will be updated should the levels of service decline. Ms. Sullivan noted that the School District had requested utilizing their previously-submitted comments. Chairperson Sattler invited the applicant to come forward.

(4:13:32) – Architect Terry Novak introduced himself and noted that he was in agreement with the Conditions of Approval Outlined by Staff. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(4:14:24) – **MOTION:** I move to recommend approval of SUP-19-164 based on the ability to make the required findings, and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (6-0-1)
MOVER:	Borders
SECONDER:	Wiggins
AYES:	Sattler, Borders, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	Dawers
ABSENT:	None

E.6 AB-19-168 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR AN ABANDONMENT OF A PUBLIC RIGHT-OF-WAY, SPECIFICALLY A PORTION OF LAMOTTE DRIVE, BEGINNING AT THE REAR PROPERTY LINES OF 3493 ARROWHEAD DRIVE (APN 005-052-03) AND 3505 ARROWHEAD DRIVE (APN 005-053-03), AND EXTENDING TO APPROXIMATELY THE EASTERN PROPERTY LINE OF 3321 LA MOTTE DRIVE (APN 005-053-12).

(4:15:21) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report and noted Staff's support of the abandonment, "but we think we need some street improvements before we can actually abandon the road to accommodate these turnarounds." She also outlined the abandonment process which would require the Planning Commission's recommendation to the Board of Supervisors based on the seven required findings. Ms. Sullivan acknowledged the presence of the applicant's representative, Derek Wilson of the Rubicon Group and explained to vice Chair Borders that the City will most likely rename one of the streets. Ms. Sullivan and Mr. Pottéy also responded to clarifying questions from the Commissioners.

(4:14:48) – Mr. Wilson stated that they are in agreement with the conditions of approval. He also clarified for the Commission that "everything proposed for abandonment is unbuilt now" and that items noted in Condition five are also being addressed by the applicant. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(4:19:51) – **MOTION:** I move to recommend that the Board of Supervisors approve AB-19-168, based on seven findings and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Sattler
SECONDER:	Borders
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

E.7 SUP-19-177 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR A SPECIAL USE PERMIT FOR A RESIDENTIAL USE IN A NON-RESIDENTIAL ZONING DISTRICT TO CONSTRUCT 12 APARTMENT UNITS ON A 0.63-ACRE PARCEL ZONED NEIGHBORHOOD BUSINESS-PLANNED UNIT DEVELOPMENT (NB-P), LOCATED ON THE SOUTHEAST CORNER OF STAFFORD WAY AND SILVER SAGE DRIVE, APN 009-563-07.

(4:20:32) – Chairperson Sattler introduced the item. Ms. Sullivan presented the Staff Report, incorporated into the record, and responded to clarifying questions. She also recommended approval of the Special Use Permit based on having met the seven required findings. Applicant Jeff Pisciotta, and applicant representatives Christopher Moltz and Mark Johnson of Stanka Consulting LTD introduced themselves and noted their agreement to the conditions of approval by Staff. Vice Chair Borders received clarification that the apartments touching Heaton Way will have private backyards and will have fences of undetermined height. Mr. Pisciotta explained that he had contacted the homeowners association (HOA) of the Heaton Way properties but had not heard back from them regarding maintaining that portion of their property. Commissioner Dawers was informed that the trash will be collected in cans and not in large receptacles. Mr. Moltz stated that there would be private garage parking for each apartment (12 total), 12 assigned uncovered parking spaces, and three unassigned guest parking spaces. Chairperson Sattler entertained public comments.

(4:40:45) – Carl Bolton introduced himself as “the president of the homeowners association that’s adjacent to this development, on the south and the east portion.” Mr. Bolton objected to the two-story units being planned, and believed “there’s never enough parking spaces in an apartment complex”, adding that only six or seven cars may be allowed on Stafford Way.

(4:43:31) – William Reinbolt introduced himself as a Stafford Way resident, and objected to the two-story complex and the anticipated traffic.

(4:45:06) – Kathleen St. Clair introduced herself as a Heaton Way resident and spoke in opposition to the proposed development and believed people will start parking on her street which she noted was a private street.

(4:46:12) – Katherine Borde introduced herself as a Heaton Way resident and noted that she had bought two units “because of the beautiful views” and did not wish to see her views obstructed with the two-story apartments, and she did not want “a high-transient, packed-in group across from where I live.” Ms. Borde also stated that many residents on Heaton Way had not received notices regarding the development

(4:48:57) – Sandra Stephen introduced herself as a 13-year resident living on Heaton Way and expressed opposition to the two-story buildings as well.

(4:50:28) – Don Fox introduced himself as another Heaton Way resident and explained that he was speaking on behalf of his wife, who owned the complex they were living in. Mr. Fox was also concerned about losing their view and the extra cars that would drive through the neighborhood or cause parking problems.

(4:56:06) – Gene Carhart introduced himself and spoke against having apartment windows looking down on Heaton Way.

(4:56:59) – Chairperson Sattler entertained additional comments; however, none were forthcoming. He also addressed the issue of notifications, stating that they were done per City requirements. The Chair also expressed concern that only three guest parking spaces would be available. Ms. Sullivan clarified that windows would face Heaton Way. Commissioner Esswein was informed that the maximum building height in a commercial district was 26 feet, the same height proposed by the developer, and offered to explain the allowable uses in a commercial zone. Chairperson Sattler explained that “although views are nice to have, there’s no guarantee on adjacent property that your view is not going to be blocked.” Commissioner Esswein recommended towing “a car that isn’t supposed to be there” adding that he had noticed “any number of duplexes and any number of two-story units in this immediate neighborhood...this is a permitted use with a Special Use Permit”.

(5:03:59) – Commissioner Tingle believed that this development would not address the issue of affordable housing and Chair Sattler noted “that’s really not in our control to tell a developer what he has to put in affordability-wise.” Commissioner Preston called the development an “infield project”, which she believed would be attractive for the neighborhood. Commissioner Dawers believed the open space is minimal; however, after driving in the neighborhood, he believed the project “meshes perfectly with the surrounding areas” and that it was “a pretty good buffer between single-family homes and light commercial [zoning]”. Chairperson Sattler entertained further discussion, and when none were forthcoming, a motion.

(5:08:13) – MOTION: I move to recommend approval of SUP-19-177 based on the ability to make the required findings, and subject to the conditions of approval contained in the staff report.

RESULT:	APPROVED (7-0-0)
MOVER:	Dawers
SECONDER:	Preston
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(5:08:44) – Mr. Plemel noted that this action was the final decision on the Special Use Permit application unless appealed which could be filed within 10 days from this date, by contacting the Planning Division.

(5:09:34) – Chairperson Sattler recessed the meeting.

(5:18:54) – Chairperson Sattler reconvened the meeting and noted that the Commission would address agenda item E-9 prior to item E-8. A quorum was still present.

-- THE FOLLOWING ITEM WILL BE HEARD NO EARLIER THAN 5:30 PM --**E.8 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.**

(5:33:01) – Chairperson Sattler introduced the item and explained the meeting format to the audience, noting that public comment will take place after the Staff and the plant operator presentations; however responses will be reserved until after all the comments have been heard. Ms. Sullivan presented the Staff Report, incorporated into the record, and responded to clarifying questions. She also clarified for Chairperson Sattler that this item was agendized as a one-year review of the approval of the modification of the Special Use Permit, and confirmed that in a one-year period there had been 226 complaints.

(5:42:35) – Business Operator Robert Matthews introduced himself as a South Curry Street resident and explained that many of the calls had been during non-operational hours, and that he had been running the plant for “two nights this year”. He also confirmed for Commissioner Dawers, that he had been using an additive [for odor mitigation] “since the last meeting, non-stop”. Chairperson Sattler reiterated the public comment format and expectations and invited the public to comment.

(5:45:00) – Michele Busk introduced herself as a resident of Traci Lane in Mound House and stated that she “got immediately nauseated; it was so strong” upon walking outside of her house that morning from the odor. She stated that “they were cooking about a week and a half ago at night. They were cooking the night before last. I have woken up several times at 3:00 in the morning, as they start cooking then. It makes a horrible sound. But most of all, I can’t breathe, I can’t go outside, I am in my house, all my windows are closed.” She stated that she is forced to close “everything” because she has woken up at night “coughing, and choking, and not being able to swallow.” She requested to know what the chemicals are that “they are putting in to stop the smell,” as they are not stopping the smell, and she believes they may be “more dangerous than the smell.” Ms. Busk mentioned her concern for the property value of her home and stated that no one had told her about the asphalt plant despite buying the property after Mr. Matthews built it. She also stated that she would invite “anybody” to her house to smell the odor firsthand. She stated that she “called this office so many times. I’ve called NDEP office so many times, so they said ‘start calling every day.’” Ms. Busk commented on how the law that Ms. Sullivan referred to should be changed in her opinion. She also mentioned how she’d get a lawyer if she could afford to do so.

(5:49:19) – Judy Lucas introduced her as a resident of Marianne Way in Mound House and thanked the Commission, NDEP, and Code Enforcement for trying to help the residents involved. Chairperson Sattler reminded Ms. Lucas to remain on topic, and Ms. Lucas stated how there were “a lot of angry people” at the meeting, and she was trying to “stop them from being so angry.” She stated that this was approximately the third or fourth time many of the residents had attended the meeting regarding the asphalt plant, and she did not “know how this man could do what he’s doing” to them and to their children. She commented that she is “so worried about these little children in our neighborhood. Yes, the smell is there, but what about the ashes? Where do these ashes all go? And they’re toxic.” Ms. Lucas referenced a document from OSHA “how bad it is.” She stated that she would not be able to afford

another house and welcomed the Commission members to her house to experience the asphalt plant firsthand. Ms. Lucas called the applicant a “terrible, terrible man” and mentioned how he runs the plant at times he was not directed to. She stated that “he knows how he can do his cooking … and have it shut down before NDEP gets there … He just does not care … The time that he started, we were Carson City, and nobody bothered to look over the hill to see us, and we were there, and I don’t understand how that can happen … We’re all getting sick … If I’m getting sick, what’s happening to children?”

(5:53:29) – Chairperson Sattler reminded those commenting to keep comments at about three minutes or less.

(5:53:34) – Melanie Harris introduced herself as a resident of Marianne Way in Mound House and stated that because she works graveyard shifts, she leaves for work late and has smelled the asphalt plant when leaving as well as in the morning when she has come home to indicate that Mr. Matthews is cooking at night. She stated that the residents were never notified about the plant. She mentioned how many residents were forced to “tape up” their swamp coolers, and that she has had to buy a portable one because she has not been able to use her swamp cooler in three years. She stated that they “can’t sell our houses because we would disclose [the effects of the asphalt plant].” She showed pictures of the smoke from the asphalt plant to the Commissioners and indicated how the smoke goes over the hill and into her neighborhood. Ms. Harris stated that “no one is helping” them and had not in the three years the plant has been in operation, and they “should be rezoned or [Mr. Matthews] should be out of there.”

(5:55:19) – Kaila Lopez introduced herself as a resident of Mound House and stated that she has lived in Mound House her entire life, and her kids are “growing up there.” She stated that she was not warned about the asphalt plant, and she has been on short term disability “pretty much this whole year.” She commented on how she could not open her windows, and the kids could not play outside or go to the park nearby because of the plant. She stated that the smell from the plant “is a really strong smell. I don’t think that he realizes it.” She referred to the pictures taken by Ms. Harris and stated that she has “seen it worse where I’m coming from Dayton, and our whole area, even further down, is just smoke. It is unbearable how bad it is.”

(5:57:17) – Cindy Jones introduced herself and stated that she and her husband had retired in the neighborhood recently to be closer to their daughter. She noted that she and her husband were excited about relocating there, and her husband has chronic obstructive pulmonary disease (COPD) and had been “managing it very well.” Ms. Jones stated that her husband had been at Quick Care every month for breathing, since August, and his medications had been changed. She commented that the “fumes are one thing,” but they “didn’t even know what was going on,” and her husband had mentioned to her the sounds from the plant that could be heard “all night long.” She stated that they cannot sell, although she had realized the long-term effects of living near the plant, and they would not want to because they “love it here.” She also pointed out Fernley’s use of the regenerative thermal oxidizer to “depreciate this stuff over many years.” She stated that while she did not want the applicant to leave, she was afraid of losing her husband, who is 71-years-old and in “very good health,” and he had been fatigued from what she believed was the effects of the plant.

(5:59:51) – Lynne Stillman introduced herself as a resident of the Carson Highlands Mobile Home Park in Mound House, and she stated that “the fumes have a tendency to lay in the lower areas,” which she indicated is where she lives. She pointed out that that morning “it was so bad, which it usually is on a

daily basis and in the evenings also that I have a previous lung problem where I had a lung collapse twice ... I know now that with these fumes I can tell as soon as I open a door or a window that I can feel the heaviness in my chest, and I also get migraines from these fumes, and I really think it's time that they do something about it ... I wanted to let you know that it's definitely a problem in my area."

(6:01:00) – Octavio Juarez introduced himself as a resident of Mound House and stated that he is translating for his father. He commented that every time in the morning that he wakes up to go to school, “the pain is really strong” and explained how his eyes burn, and his head hurts “really bad” when he wakes up on the weekends. He also noted that the plant affects his little brother more because he has asthma.

(6:01:54) – Ed Wawrytko introduced himself as the owner of Ed’s Custom Sheds in Mound House and stated that he lives in his shop. He believed that Mr. Matthews had been running his product “straight through without using the bag house” and explained that the bag house refers to the filter, and that the bag house is being avoided. He noted that he noticed nothing coming out of the bag house stack while there had been a huge amount of dust and debris coming out where the trucks were being loaded. He stated that Mr. Matthews was getting his product “anyway [he] can” while the residents were the ones “suffering from it.” He mentioned having seen “big plumes of dust going over the houses” and a “plume of dust” as he was traveling that day, and that the streak of sunlight showed that the fumes were a “brownish color.” He requested a field inspector go to inspect Mr. Matthews’s plant “immediately.” He also stated that “what [Mr. Matthews] is doing to [the residents] is ungodly.”

(6:04:39) – Loyaul Fraker introduced himself as a 30-year resident of Mound House and mentioned that the asphalt plant could not be “grandfathered in.” He stated that Monday through Friday, sometimes through Saturday, it is “unbelievable how loud” the plant is in the neighborhood, and the smoke comes through the neighborhood to the point that “you can’t even see the houses down the street” when the wind is “just right.” He called the situation “asinine.” He stated that although he and the other residents are in a different county, they are “the ones suffering” and “nobody in Carson City is suffering from this.”

(6:06:13) – Dave Lockhart introduced himself as a resident of Mound House and affirmed what the other commenters had stated. He stated that he smells the emissions from the plant “every morning” when he walks out his front door for work at 8:00 a.m. He also commented that he believed that Mr. Matthews is running the plant “outside his parameters at night,” as Mr. Lockhart mentioned he works on a lot of hobbies at night in the garage and the backyard, and he can still smell the fumes at approximately 8:00 p.m. – 10:00 p.m. He stated that people that live on Linehan Road that mentioned to Mr. Lockhart having seen plumes from the plant in the air. He requested that the asphalt plant get shut down or “clean the stuff up.” He pointed out that his sense of smell is “not that good, so if [he is] smelling it, [he] can’t imagine [how] it is for people who have a normal sense of smell. It’s going to be a lot worse, and it’s not healthy for us.”

(6:07:29) – Melissa Fraker introduced herself and stated that she had “been here ever since this has started.” She stated that her lungs had been getting “super, super bad.” She commented that she had the plant on film running at 3:00 a.m. and at other unpermitted times. She noted herself and others being unable to breathe, and the air quality emissions had been up to 20 percent according to Ms. Fraker. She stated that Mr. Matthews shuts the plant down for fifteen minutes to comply with the guidelines, and he

is “well aware of what he does … in the operations area.” She requested information on how far an asphalt plant could be from a community, and she noted that she did not know “why we are going on 1975 ratings when now we are in 2019.” The public applauded her statement. She also commented that “it’s over the period of time where we can live comfortably.” Ms. Fraker brought to the Commission’s attention a petition with 75 signatures, and Chairperson Sattler advised Ms. Fraker that the Commission could not take her petition at that time. Ms. Fraker thanked the Commission members for hearing her and requested that they “please help” the residents.

(6:12:00) – Jan Wiley introduced herself as a resident from Traci Lane in Mound House, and she pointed out the Special Use Permit that had been modified for the asphalt plant to modify the hours of operation, and that Mr. Matthews was not abiding by the indicated hours according to those that had commented. She inquired about when Mr. Matthews could run the plant, and Chairperson Sattler stated that the Commission would take input and later respond with answers. Ms. Wiley informed the Commission that Mr. Matthews “does run on Saturdays, and sometimes you want to enjoy your backyard on Saturdays, and you can’t.”

(6:12:58) – Juan Delgado introduced himself as a resident from Chari Drive in Mound House, and stated that back when he and his wife purchased their house in 2003, it was quiet and there were no smells in their neighborhood, but now “we can’t even go outside, it’s so bad.” He commented that one of his children is still living with him, and Mr. Delgado and his wife have thought about selling the property.

(6:13:52) – Rosa Irigoyen introduced herself as a resident from Jenni Lane in Mound House and stated that the fumes “are really so bad” and they had been “bothering” the residents in the area.

(6:14:50) – Matthew Wilkie introduced himself as a “brand new home owner in the community” and stated that he had purchased his house approximately a month ago and had not been informed by his realtor about the asphalt plant. He commented that “it is almost a constant daily struggle and process” and he “almost regret my decision to purchase in this community” despite him “really looking forward to it” and it being “a closer commute” to his work. He mentioned that the animals had also been affected by the plant and noted his dog had been wheezing and coughing more. He stated that the product Mr. Matthews had been running for a year was “clearly not” working, and Mr. Matthews “is profiting while we’re suffering. It should be on his dime to get this fixed.”

(6:17:04) – Lyon County Code Enforcement Officer David Scott introduced himself and noted all the complaints he had received, along with inquiries from several organizations, including the Lyon County Board of Commissioners and the Planning Department. He wished to hear the Commission’s decision to take back to “the people I work for”.

(6:18:12) – Chairperson Sattler relayed his experience of working with an asphalt plant in the past, adding that he had personally experienced the strong odor of Mr. Matthews’ plant and believed “if there’s anything we can do, I think we have to try to make an effort to try and make something of this issue” to be good neighbors. Ms. Sullivan reminded the Commission that in October 2018 they had created the following condition of approval (#17): *The operator shall utilize Ecosorb in operations to suppress odors.* However, the use of regenerative thermal oxidizer had not been one of the conditions. Commissioner Preston was informed that the following operating hours were approved in 2018 as condition of approval #13: *Operating hours are to be from 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. Ms. Sullivan stated that the Nevada Division of Environmental Protection (NDEP) and Carson City Code Enforcement had been to the plant several times to monitor start times and had been unable to find violations. Commissioner Esswein noted that the issue was the plant's inability to control the odor; therefore, he believed that condition #17 should either change to require the use of the regenerative thermal oxidizer or "move to revoke the permit". Mr. Johnson clarified that "revocation is not an option tonight...there's a specific process laid out in Carson City Municipal Code (CCMC) for revocation." Ms. Sullivan suggested amending condition of approval (#17) to state: *Operator shall utilize a regenerative thermal oxidizer.* Commissioner Esswein recommended not permitting Mr. Matthews to operate until installing the oxidizer. Ms. Sullivan recommended requesting that "the Community Development Director begin an investigation into the Special Use Permit" as the first step towards the revocation process.

(6:26:45) – Commissioner Dawers recommended not having the entire plant operate without the oxidizer, adding that "a year ago we promised these people that we would get the smell taken care of." Ms. Sullivan suggested inserting finding #2, compatibility with the neighborhood as part of the motion. She also reminded the public that Mr. Matthews can appeal this evening's decision. Chairperson Sattler entertained a motion. Commissioner Dawers was informed that tonight's decision will be revisited in a year, as outlined in the conditions of approval. Mr. Plemel explained how the noticing occurs between Carson City and Lyon County.

(6:29:07) – MOTION: *"I'd like to propose that we amend SUP 10-115-2, to amend conditions 13 to eliminate night operations except for emergencies by striking: 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, and revising condition 17 to require the installation of the regenerative thermal oxidizer, and prior to any continued use of this facility that equipment will be installed."*

(6:24:20) – Vice Chair Borders inquired about Mr. Matthews' business commitments since he would be unable to operate the plant until the new equipment is installed. Mr. Plemel clarified that the conditions of approval will be effective after the appeals period of 10 days; however, should Mr. Matthews decide to appeal, the outcome will be effective after the final decision by the Board of Supervisors. Ms. Sullivan recommended adding a date to condition of approval 18.

(6:39:04) – Commissioner Esswein amended his motion to include a date of October 2020 for the next review of the Special Use Permit. The seconder accepted the amendment. Chairperson Sattler called for the vote.

RESULT:	APPROVED (7-0-0)
MOVER:	Esswein
SECONDER:	Sattler
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

(6:40:20) – Commissioner Preston recommended reporting any odors in the next 10 days because of inversions at this time of year that exacerbate health conditions. Commissioner Dawers suggested contacting U.S. House and Senate elected officials as well.

(6:41:20) – Mr. Johnson advised that any request for the Community Development Director to investigate into possible revocation must be agendized for the December 2019 meeting.

E.9 MPA-19-178 FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION TO MAKE RECOMMENDATIONS TO THE BOARD OF SUPERVISORS REGARDING THE ANNUAL MASTER PLAN REPORT.

(5:19:22) – Chairperson Sattler introduced the item. Mr. Plemel gave background and reviewed a presentation, incorporated into the record, highlighting the Planning Staff deliverables concerning the Commission's annual recommendations to the Board of Supervisors regarding the implementation of the Master Plan. Mr. Plemel, along with Mr. Pottéy, also responded to clarifying questions by the Commissioners, especially regarding water resources. Chairperson Sattler entertained public comments and when none were forthcoming, a motion.

(5:32:40) – MOTION: I move to recommend to the Board of Supervisors acceptance of the Master Plan annual report as presented by Staff.

RESULT:	APPROVED (7-0-0)
MOVER:	Sattler
SECONDER:	Borders
AYES:	Sattler, Borders, Dawers, Esswein, Preston, Tingle, Wiggins
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

F. STAFF REPORTS (NON-ACTION ITEMS)

(6:45:10) – Mr. Plemel updated the Commission on the Title 18 updates discussed during the first Board of Supervisors meeting in November. He also noted that the workshops will resume in January of 2020, and reminded the Commission that the next Planning Commission meeting will take place on Tuesday, December 18, at 3:30 p.m. with the Andersen Ranch Subdivision discussion agendized for a 5:30 p.m. start time.

**F.1 - DIRECTOR'S REPORT TO THE COMMISSION.
- FUTURE AGENDA ITEMS.
- COMMISSIONER REPORTS/COMMENTS.**

(6:49:02) – Chairperson Sattler indicated that he would remain on the Commission until the sale of his house. Commissioner Esswein recommended postponing the Andersen Ranch discussion until January 2020 so he can be present.

G. PUBLIC COMMENT

There were no public comments.

H. FOR POSSIBLE ACTION: FOR ADJOURNMENT

(6:50:40) – MOTION: Chairperson Sattler adjourned the meeting at 6:50 p.m.

The Minutes of the, November 11, 2019 Carson City Planning Commission meeting are so approved this 17th day of December, 2019.