# Storey County Planning Commission
# AMENDED Meeting Agenda

Thursday October 1, 2020 at 6:00 p.m.
Storey County Courthouse, District Courtroom*
26 South B Street, Virginia City, NV

*Jim Hindle – Chairman*
*Jim Collins – Planning Commissioner*
*Larry Prater– Planning Commissioner*

*Summer Pellett- Vice Chairman*
*Kris Thompson – Planning Commissioner*
*Adrianne Baugh – Planning Commissioner*
*Bryan Staples – Planning Commissioner*

No members of the public will be allowed in the District Courtroom due to concerns for public safety resulting from the COVID-19 emergency and pursuant to the Governor of Nevada's Declaration of Emergency Directive 006 Section 1 which suspends the requirement in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate.

Further, due to the Governor's mandated steps to protect against the spread of COVID-19, the Storey County Planning Commission is hosting a teleconference meeting this month. Members of the public who wish to attend the meeting remotely, may do so by accessing the following meeting on Zoom.com. Public comment may be made by communication through zoom.

***Join Zoom Meeting: https://us02web.zoom.us/j/88607320146 Meeting ID: 886 0732 0146**

Dial by your location
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Meeting ID: 886 0732 0146
Find your local number: https://zoom.us/u/adi9WjdtNr

**For additional information or supporting documents please contact the Storey County Planning Department at 775-847-1144.**

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**All items include discussion and possible action to approve, modify, deny, or continue unless marked otherwise.**

1. **Call to Order at 6:00 p.m.**
2. **Roll Call**
3. **Pledge of Allegiance**

4. **Discussion/For Possible Action:** Approval of Agenda for October 1, 2020.

5. **Discussion/For Possible Action:** Approval of Minutes for August 6, 2020.

6. **Discussion/For Possible Action:** Approval of Minutes for August 20, 2020.

7. **Discussion/For Possible Action:** 2020-032 Special Use Permit request by applicant Mark Moglich and Corey Dalton of Raptors Live LLC. The applicant requests to operate a retail establishment and exhibit within an existing building that includes live birds of prey at 80 South C Street, Virginia City, Storey County, Nevada, Assessor's Parcel Number (APN) 001-083-02. The birds will not reside at the site, but will be transported daily by the applicant. No outside display is proposed.

8. **Discussion/For Possible Action:** 2020-030 Public Access Easement Abandonment by applicant Storey County Public Works Department. The applicant requests to abandon the public access easement associated with a portion of undeveloped A Street right-of-way, located approximately 155-feet north of Ophir Grade right-of-way and approximately 190-feet south of Ridge Street right-of-way. The land associated with the access easement will remain Storey County property; however, the abandonment of the easement will allow for construction of a County-owned building to occur. The area associated with the public access easement abandonment will be consolidated with the Storey County owned parcel. The access easement abandonment is located adjacent to 800 South C Street, Virginia City, Storey County, Nevada and borders Assessor's Parcel Number (APN) 001-042-13.

9. **Discussion/For Possible Action:** Determination of next Planning Commission meeting.

10. **Discussion/For Possible Action:** Approval of Claims.

11. **Correspondence** (no action)

12. **Public Comment** (no action)

13. **Staff** (no action)

14. **Board Comments** (no action)

15. **Adjournment**

**Notes:**

- There may be a quorum of Storey County Commissioners in attendance, but no action or discussion will be taken by the Commissioners.
- Public comment will be allowed after each item on the agenda (this comment should be limited to the item on the agenda). Public comment will also be allowed at the end of each meeting (this comment should be limited to matters not on the agenda).
- Items on the agenda may be taken out of order, the public body may combine two or more agenda items for consideration, and the public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.
- Additional information pertaining to any item on this agenda may be requested from Lyndi Renaud, Planning Department (775-847-1144).
- Supporting material is available to the public and may be obtained at http://www.storeycounty.org/agendacenter or the Storey County Courthouse, Planning Department, 26 South B Street, Virginia City, Nevada.

**Certification of Posting**

I, Lyndi Renaud, on behalf of the Storey County Planning Commission, do hereby certify that I posted, or caused to be posted, a copy of this Agenda at the following locations on or before September 22, 2020: Virginia City Post Office; Storey County Courthouse; Storey County Community Development; Virginia City Fire Station 71; Virginia City RV Park; Virginia City Highlands Fire Station; Mark Twain Community Center; Rainbow Bend Clubhouse; Lockwood Community/Senior Center; Lockwood Fire Station; and the Virginia City Highlands Online Message Board. By Lyndi Renaud, Secretary

# STOREY COUNTY PLANNING COMMISSION

Thursday August 6, 2020 6:00 p.m.
26 South B Street, District Courtroom,
Via Zoom
Virginia City, Nevada

## MEETING MINUTES

CHAIRMAN: Jim Hindle VICE-CHAIRMAN: Summer Pellett

COMMISSIONERS:
Larry Prater, Kris Thompson, Jim Collins, Adrianne Baugh, Bryan Staples

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1. **Call to Order:** The meeting was called to order by the Chairman at 6:00 P.M.

2. **Roll Call via Zoom**: Jim Hindle, Adrianne Baugh, Larry Prater, Kris Thompson. Summer Pellet, Jim Collins, Bryan Staples joined the meeting at 6:45 p.m.

   **Also Present:** Senior Planner Kathy Canfield, County Manager Austin Osborne, Chief Deputy District Attorney Keith Loomis, County Commissioner Jay Carmona and County Commissioner Lance Gilman.

3. **Pledge of Allegiance:** The Chairman led the Pledge of Allegiance.

4. **Discussion/Possible Action:** Approval of Agenda for August 6, 2020.

   **Motion:** Approval of Agenda for August 6, 2020, **Action:** Approve, **Moved by** Commissioner Prater, **Seconded by** Commissioner Thompson, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

   **Public Comment:** Sam Toll said he received an email stating a planning commission agenda had been posted. Asked if there were any changes to the agenda because he could not view it at the time.

   **Chairman Hindle** clarified that it was correspondence. The agenda has not changed since the original date of posting.

5. **Discussion/For Possible Action:** Special Use Permit 2020-021 request by the applicant Stericycle, Inc. to construct and operate a medical and other special waste incinerator facility. The project has the potential to provide generation of excess power, which is considered an "electric or gas power generating plant" which is also subject to a special use permit. The subject property is located at 1655 Milan Drive, Tahoe-Reno Industrial Center, McCarran, Storey County, Nevada, a portion of Assessor's Parcel Number (APN) 005-111-73.

   Chairman Hindle clarified that this was an item that was continued from the last planning commission meeting.

   Commissioner Thompson recused himself from this item due to a pecuniary interest he has as project manager in a transaction between the TRI Center and the applicant.

   **Senior Planner Canfield:** Stericycle is proposing to construct and operate a medical waste and other specialty waste incinerator facility to be located at 1655 Milan Drive. The site is zoned I-2, Heavy Industrial with the I-S (Special Industrial Zone) overlay and is an undeveloped parcel. This was continued from the last meeting in which some commissioners asked for written answers

to questions and concerns raised in correspondence and during the planning commission meeting. Stericycle has provided a written response that was forwarded to the planning commissioners earlier in the week and posted to the website. Staff also received additional correspondence from an adjacent property owner in opposition to the project. The correspondence was also posted to the website and forwarded to the planning commissioners. In addition, Staff received a letter of opposition a couple of hours ago. That was posted to the website and forwarded to the planning commissioners.

Stericycle is prepared to answer any questions following a brief presentation.

**Dominic Culotta: Executive V.P. and Chief Engineer for Stericycle:** Stericycle has received, reviewed and taken in to consideration feedback from the community and Stericycle takes this very seriously. The updated presentation reflects this. At this time of pandemic this type of facility is critical, necessary, and timely to support our healthcare communities. Culotta presented an overview of the proposed facility (see attached presentation), explained how the incinerators work, and highlighted the rigorous environmental and safety standards that guide the operation. Stericycle will work to be a model and corporate citizen and valuable member of the community. Introduced members of the Stericycle team (presentation).

-50,000 square feet facility will be located on 20 acres at 1665 Milan. All processing will be contained within the building. No waste material will be stored. Facility will be fully fenced and video monitored for security, and will not be open to the general public. Facility will receive 10-15 trailers per day and employee 30 full time team members. Site was intentionally oversized to provide a buffer to minimize impact to neighbors and wildlife.

- Incinerators are small in comparison to municipal solid waste incinerators. Incinerators intended to be placed in this facility are designed to process 3.5 tons per hour as opposed to municipal facilities which are much larger and may process as much as 70 tons or more per hour.
- Traffic impact is very small with proposed 10 to 15 trailers per day. Employment is estimated to be 30 full time skilled and trained team members with good benefits and wages.
- Construction phase of the project will support many jobs.
- Facility will process certain types of waste designated for incineration such as waste pharmaceuticals, trace chemotherapy drugs and pathological waste which often come from hospitals, universities, special service centers, and pharmaceutical centers. Incineration of these types of medical waste is the environmental best practice for disposal. Stericycle is committed to safety of the environment. Implemented a program in the last 18 months that includes a centralized global focus on safety which includes advanced safety programs.
- Facility based in North Salt Lake City, Utah remains fully operational and compliant. The violation that has been brought up by those opposed to this facility in Storey County occurred 9 years ago and has been the only citation for emissions violation experienced in the facilities 24 year history of operation. Results from two separate subsequent county department of health studies have demonstrated that emissions from the facility present no health risks to the surrounding community, however the community around us in North Salt Lake City was re-zoned to residential. The facility was starting to age and is not optimally located and lacks adequate processing capacity. This is what drove our decision to seek a better alternative. The proposed facility in Storey County will be the most technologically advanced of its kind and will adhere to the most stringent environmental standards than are required at all of our other facilities. Stericycle is subject to stringent federal and state regulations under the EPA, Hospital Medical Infectious Waste Incinerator Waste regulations. We follow a proven air pollution control process for best in class emission results. All testing of facilities is done by a third party and submitted to the State Bureau of Air Quality.
- Regarding community engagement, we reached out to the American Wild Horse Campaign and have had productive meetings thus far regarding traffic safety, vehicle strikes (horses), access to drinking water and having sustainable habitat for the wild horses. Committed to further supporting measures to ensure the safety of the wild horses.
- Stericycle has a large local customer base which includes multiple doctor's offices, labs, international airports, retail as well as the Douglas County School District and the Washoe County Sheriff and Health District, and also provide service to federal, state and local governments and all branches of the military.
- Stericycle is committed to being fully transparent and will work with the public officials and members of the local community.

**Commissioner Baugh:** Informed the commission that she was contacted by Will Adler, local representative for Stericycle. He reached out and we spoke. Baugh said she does not have an opinion one way or the other regarding her decision on the special use permit.

**Chairman Hindle** added that he had an email exchange with the Adlers (Will and Sarah). They introduced themselves and said they would be participating in the process. Hindle told them that they were welcome additions from the standpoint that if they had any additional information they could add to help with the decision that would be appreciated. Nothing further from there was discussed.

**Commissioner Prater:** Also spoke with Sarah Adler a couple of times and was invited out to look at the site, but was unable to make it because of other obligations. He told Sarah that he is keeping an open mind. Prater has a question for Mr. Culotta and told him that he has been reviewing Stericycle's response from July 31st and the Blockchains correspondence that was 14 pages of comment followed by roughly 320 pages of background information. They put a lot of time and effort into a response to this

(SUP request) and have asked the planning commission to deny the permit. Prater said he was bothered a bit by Stericycle's response to the activity in North Las Vegas. The letter states that you (Stericycle) had an approval but then backed out of it because of lack of infrastructure. Blockchain's says that no, there was no approval. Said he called county staff and thankfully Senior Planner Canfield is very careful with these sorts of issues and had researched the activity in Las Vegas. Turns out that both of you were right in that you did receive a special use permit, it expired in two years, then Stericycle asked for it to be renewed and at that time their staff recommended denial. Prater said he assumes shortly after that it was decided to withdraw the application stating that the reason was lack of infrastructure.

**Dominic Culotta: Executive V.P. and Chief Engineer for Stericycle:** Said that in looking at the North Las Vegas area, and the issues that were coming up, Stericycle allowed that permit to expire. They tried to renew the permit since it had already been issued previously and tried to work out the infrastructure issues. The concerns around the issues with infrastructure was what really drove us (Stericycle) to decide to let the permit expire. The main reason for attempting to renew the permit was simply to keep the opportunity open, but it was pretty clear to Stericycle that it was not the best place to be.

**Dale Rich, V.P. of Incinerator Operations for Stericycle:** Said that Dominic is correct. Stericycle allowed that permit to expire. The infrastructure challenges were significant and ultimately, we made the decision to withdraw the application (SUP).

Discussion continued between Commissioner Prater and Dominic Culotta regarding the issue of the North Las Vegas facility and the attempted permit renewal and circumstances related to it, specifically that Staff in Las Vegas recommended denial.

**Selin Hoboy, V.P. of Government Affairs and Compliance for Stericycle:** Would like to focus on why Stericycle wants to build this facility in Storey County. Hoboy said that they found the needed infrastructure here. That was part of the reason why we (Stericycle) didn't further pursue the permit in Las Vegas. This location is ideal for Stericycle's long range vision plan for this type of facility, incineration, with the Heavy Industrial overlay zoning and the project conforms with the Master Plan.

**Chairman Hindle:** Opened Public Comment.

**Matthews Digesti, Vice President of Government Affairs for Blockchains LLC:** Submitted Statement below:

**I. Introduction**

Chairman Hindle and Members of the Planning Commission. I am Matt Digesti, Vice President of Government Affairs for Blockchains, LLC. I'm here to speak in opposition to the Special Use Permit requested by Stericycle. Although I have provided you a detailed Opposition, I take this opportunity to highlight three important points: First, why Blockchains is here. Second, why Stericycle is here. And third, why the Special Use Permit should be denied.

**II. First, why is Blockchains here?**

Blockchains is here because we care about Storey County. When founder Jeffrey Berns decided to build a high-tech community, he carefully considered many sites in the U.S. He chose Storey County to develop a world-class, cutting-edge business and technology park integrated with a master-planned residential community. This development builds upon the evolution already taking place at TRIC with the likes of Tesla, Google and Switch already investing billions into the County.

· Mr. Berns acquired 60,000 acres in McCarran and Painted Rock.
· He made the largest monetary land investment in Storey County history.
· He has created 100+ high paying jobs in Storey County, and
· He has long-term plans to create thousands of high paying jobs with future investments in the billions of dollars.

Yet, these transformational plans could be destroyed by a single company – Stericycle.

**III. Second, why is Stericycle here?**

I don't need to rehash what was filed in our written statement. Frankly, we would be here all night. Stericycle is here for one reason – it cannot get approved to operate anywhere else. So why would Storey County, with such a positive and historical track record of supporting innovate land development, welcome a business that could threaten the future of that development? Our hope is that Storey County will deny the special use permit application.

**IV. Lastly, why should the special use permit be denied?**

The special use permit should be denied for three reasons. First, the project causes a substantial detriment to the public good. Utah has determined that Stericycle is dangerous to the public. North Las Vegas concluded the same thing. The wild horse population is also at risk – polluted water sources, altered migration patterns, and increased vehicle-horse accidents harm the public good. Put bluntly, Stericycle significantly increases the risk to the public, the environment, and the wild horse population.

Second, the project is not consistent with the Master Plan. In McCarran, we have Tesla, Switch, Google, and several other Fortune 500 companies. Stericycle is asking you to approve a medical waste incinerator in the middle of these high-tech businesses. This is incompatible and inconsistent. The problem is compounded with the residential component of Blockchains' future development plans. No one wants to live or work next to a polluting medical waste incinerator with a significant history of accidents causing substantial harm to the public.
Lastly, Stericycle made a lot out of the fact that there is new leadership. A new CEO, a board creating unique sub committees. That new leadership was in place when Stericycle told this Commission about the reasons it abandoned North Las Vegas. It left out the fact the staff in North Las Vegas recommended denial. It was not an oversight. It was a choice, by Stericycle's new and improved leadership, to leave out critical information to this Commission. They are requesting your approval on the one hand, while not being transparent on the other.

**V. Conclusion**

Thank you for your time. I ask that you carefully consider our paperwork and vote to recommend DENIAL of Stericycle's special use permit application. I have prepared a written statement of my comments and ask the Clerk to attach my statement to the Minutes of this Meeting.

**Commissioner Prater:** Said he has a question for Mr. Digesti. In response to Stericycle's plans you mentioned several times plans that Blockchains has for its properties which included residential. Surely you are aware that there is no allowance for residential development in the Master Plan or in the zoning for TRI.

**Mr. Digesti:** Commented to Commissioner Prater that he is correct that within the industrial center residential development is not allowed, however part of the land purchase included an area called Painted Rock. When we speak of residential development that is just one piece of the entire development. Residential will sit outside of the industrial center, but the high tech business park sits partially within and partially outside of the industrial center. Painted Rock is obviously close enough to this proposed project and could be impacted.

**Greg Hendricks, American Wild Horse Campaign:** Thanked the Stericycle staff as well as Mr. Adler for their time listening to our concerns and requests related to mitigation on impacts to the wild horses. The American Wild Horse Campaign still has concerns with the impact to the wild horses, habitat and to our volunteers out at the site being in close proximity to the construction area and also the final facility. One of the elements that we would like to bring up is that we currently have no really detailed mitigation plan from Stericycle.
We would like to see prior to approval or at least a contingency put in writing to address some of the specific concerns that we provided to them relating to lighting and traffic on Milan, and fence setbacks so that there isn't a trap next to the road where the entrance and exit will be. Recommend that a mitigation plan be developed in writing and presented either prior to or during the approval process including mitigation for Blockchain's concern as it related to wild horses.

**Sam Toll:** Said he is calling in from Gold Hill where his house is perhaps the farthest away from this facility that it could be. Speaking in opposition of the special use permit. Toll said he shares the concerns that Mr. Digesti from Blockchains brought up, and also concerned about the wild horses. Said that even though he didn't participate in the vote, it is his understanding that Storey County voted against Yucca Mountain when the opportunity was presented before the voters. By the board approving these types of businesses, both Stericycle and the Asian Chemical company we are setting a precedent to invite similar types of companies in to Storey County. It's important to recognize the types of firms that we are going to let in and be cautious about what the long term impact is for this type of development not only to the horses but the impact to our first responders. Toll stated that if there is an accident what type of equipment and dangers are they going to be facing when they enter a dangerous situation at either of the two facilities (Stericycle, AUECC). Said he has talked to folks within the fire department and there is a very big concern about training, equipment and potential for personal injury and what could be released into the environment. Encouraged the board not to approve this permit.

**Dominic Culotta:** Stericycle started about 30 years ago because of the crisis of needles washing up on the Atlantic seaboard shoreline. We set out with the purpose to improve the safety of the communities and the environment. Currently we treat about 900k tons of medical waste each year and another 42k tons of pharmaceuticals. We are about protecting people, promoting public health and safeguarding the environment. We are trusted by hospitals, healthcare companies, and government. We are very safe and when you look at the grand scale of what Stericycle handles and the amount of issues that have actually occurred, there will be some, and there will be some exceptions, but we are highly committed to continuously improve and do it significantly. Culotta stated that in the first half of 2020 versus the first half of 2019, a 31% improvement in the safety frequency of our employees. We do protect all the environments around us. Stericycle has seven incinerating facilities, 46 (inaudible) facilities, and 130 transport sites, and in regard to that, we have minimal concerns and continue to get better and better as we go forward. Mr. Culotta discussed the leadership changes that have occurred in the last 18 months and various other pertinent aspects of the Stericycle company and the appropriateness of the TRIC site.

**Commissioner Baugh:** Said to Dominic Culotta to be cautious in stating statistics from the first six months of last year versus the first six months of this year. Baugh said that she is not sure and nobody knows how much demand you had, and that kind of thing. It was a very different six months of the year from 2019 and 2020 due to the Covid situation. Baugh also stated that she is disappointed to not see a written plan to address the horses.

**Commissioner Collins:** Said he cares about horses, but this is an industrial park and said he understand that they (Stericycle) are going to address some things for the horse community. Collins said he thinks this (project) would fit in to the industrial park, it is not a residential area.

**Chairman Hindle:** Asked Mr. Culotta if Stericycle has other US based facilities and has Stericycle had issues with governmental regulators in those facilities, and whether or not the government agencies have shut down facilities due to non-compliance issues.

**Dominic Cullota:** Said they have about 180 facilities spread across the United States. The companies have two core businesses, the medical waste and the document destruction (shredding). Some are transportation facilities and (inaudible), and seven incinerators. The incinerators are in Kansas, Louisiana, North Carolina to the east. Generally, issues arise because of areas right next to us are rezoned to residential.

**Dale Rich, V.P. of Incinerator Operations**: Stated that none of the incinerator facilities have been closed down and no regulatory actions have occurred to even suggest that. All of the facilities are in compliance with emission standards and permitting. Said that at present they conduct emissions testing on an annual basis, and the testing has been successful. From an impact perspective in regard to the Utah facility, a government agency conducted two health studies and those studies concluded that an older facility, one that's been operating for years, with lesser technology had no measurable impact on the environment.

**Chairman Hindle:** Asked staff if they know the number of hazardous operations there are in TRIC.

**Austin Osborne, County Manager:** Stated that there are quite a few companies at TRIC that are classified in one way or another and this board approved another medical waste processing facility a year or two ago. There are companies that deal with hazardous substances and have special use permits such as high volumes of ammunition and manufacturing of military arms, hydrogen and gas to diesel processing, a company that transfers medical waste and other municipal waste into diesel fuel, a company that manufactures gas and diesel. Said that if you visit a Golden Gate Petroleum gas station, most of that fuel comes from the TRIC. There are a few additional companies that deal in hazardous substances that are quite volatile but do not require a special use permit.

**Chairman Hindle:** Asked staff how active NDEP is in the TRIC.

Also confirmed that the staff report states that the proposed parcel is zoned I2 heavy industrial and all the adjacent properties to this parcel are zoned I2 heavy industrial. It does not abut to a parcel with a less intensive industrial zoning. Senior Planner Canfield confirmed Hindle's statement.

**Austin Osborne, County Manager:** NDEP (Nevada Division of Environmental Protection) is involved in air emissions and water monitoring, compliance, and regulatory measures. NDEP follows NRS and NAC. They are the authority in the state of Nevada for monitoring all environmental matters. I believe Stericycle will also be under EPA air regulations according to the process they will be using.

**Senior Planner Canfield:** Said that NDEP issues their own permits, follows up and monitor the permits. Storey County does not have air quality regulations, we look to NDEP to have the expertise to do that.

**County Manager Osborne:** Regarding the master plan and residential uses at TRIC; the master plan prohibits residential uses in TRIC. The zoning also prohibits residential uses at TRIC as does the Development Agreement between TRIC and the county. Residential uses are not compatible with industrial and heavy intense uses that TRIC is designed to accommodate.

Osborne stated that he has worked in Planning on staff for about 10 years and was on the planning commission prior to that. In all of these cases including this one, the Storey County Fire Chief and Storey County Fire Protection District was intimately involved in the development of these staff reports for companies and they have no concerns as far as being able to respond to the types of emergency, medical, fire and other types of responses to this use as well as any other use out at TRIC and across the county.

**Commissioner Pellett:** Stated that looking at this from a planning perspective, this area has been zoned heavy industrial since 1999 and it also carries the land use designation as well. Some of the issues that could arise with this type of use are being mitigated. Stericycle is going to be subject to federal regulations, the EPA and NDEP, which are included in the conditions of approval. Pellet said that from a planning perspective she typically relies on those agencies to properly do their job in making sure that the environmental impacts are meeting all of the standards that are put in place at both the federal and state level. According to the staff report the applicant is proposing to fall within those regulations, and this is heavy industrial zoning and a heavy industrial land use.

This is the type of use that fits in to the TRIC, and regarding the wild horse issue, 10 to 15 trucks a day doesn't seem to be anything that is not typical already at TRIC. Said she would assume that many other land uses out there have a higher impact when it comes to truck traffic. Does not see how we can discuss the horses being at risk specifically due to Stericycle. Also, it has already been mentioned that other incinerator facilities exist at TRIC. Pellett said that she is having a hard time seeing that this proposed use would not be acceptable in heavy industrial zoning in an industrial park.

**Motion:** In accordance with the recommendation by staff, the Findings of Fact under Section 3.A of this report with the addition of Finding 8 (added by Senior Planner Canfield), and other findings deemed appropriate by the Planning Commission, and in compliance with the conditions of approval, I Summer Pellett, recommend approval of Special Use Permit 2020-021, to construct and operate a medical and other special waste incinerator facility. The project has the potential to provide generation of excess power, which is considered an "electric or gas power generating plant" which is also subject to a special use permit. The subject property is located at 1655 Milan Drive, Tahoe-Reno Industrial Center, McCarran, Storey County, Nevada, a portion of Assessor's Parcel Number (APN) 005-111-73. , **Action:** Approve, **Moved by** Commissioner Pellett, **Seconded by** Commissioner Staples,

**Senior Planner Canfield** read the findings into the record:

(1) This approval is for Special Use Permit 2020-021, a request by the applicant Stericycle, Inc., to construct and operate a medical and other special waste incinerator facility. The project has the potential to provide generation of excess power, which is considered an "electric or gas power generating plant" which is also subject to a special use permit. The subject property is located at 1655 Milan Drive, Tahoe-Reno Industrial Center, McCarran, Storey County, Nevada, a portion of Assessor's Parcel Number (APN) 005-111-73.

(2) The Special Use Permit conforms to the 2016 Storey County Master Plan for the McCarran planning area in which the subject property is located. A discussion supporting this finding for the Special Use Permit is provided in Section 2.E of this staff report and the contents thereof are cited in an approval of this Special Use Permit.

(3) The subject property is located within an existing industrial neighborhood in the McCarran area of Storey County. The zoning is based on the 1999 Storey County Zoning Ordinance which identifies this property as I-2 Heavy Industrial. The proposed facility is defined as a "recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes" and has an incinerator and has the potential to provide an "electric or gas power generating plant" and requires a Special Use Permit.

(4) Granting of the Special Use Permit, with the conditions of approval listed in Section 4 of this report, will not under the circumstances of the particular case adversely affect to a material degree the health or safety of persons/property in the neighborhood of the subject property. The project is expected to meet the safety and health requirements for the subject area. The use will also be subject to building and fire plan review in order to ensure compliance with federal, state and other codes.

(5) The Special Use Permit will not impose substantial adverse impacts or safety hazards on the abutting properties or the surrounding area, and it will comply with all federal, state and county regulations.

(6) The conditions under the Special Use Permit do not conflict with the minimum requirements in the 1999 Storey County Zoning Ordinance Sections 17.37 I-2 Heavy Industrial and 17.62 Special Uses.

(7) Granting of the Special Use Permit will not, under the circumstances of the particular case, adversely affect to a material degree the health or safety of persons working in the neighborhood or area of the subject property and will not be materially detrimental to the public welfare or materially injurious to property improvements in the neighborhood or area of the subject property.

(8) Granting of the Special Use Permit would not be incompatible with or detrimental to the surrounding area.

**Commissioner Prater** requested a roll call vote.

**Vote:** Motion carried by vote (**summary:** Yes=5, Pellett, Staples, Hindle, Baugh, Collins, Nay=1, Prater).
Chairman Hindle Recessed meeting for 5 minutes after allowing Commissioner Thompson to rejoin the meeting.

6. **Discussion/Possible Action:** Special Use Permit Amendment 2017-020-A1-2020 by applicant Asia Union Electronic Chemicals – Reno, Inc. (AUECC). The applicant requests an amendment to Special Use Permit (SUP) Number 2017-020 to modify the language associated with Conditions of Approval C, D, S, T and BB which relate to chemical and substance inventory, outdoor loading/unloading, water/fog deluge systems, bulk product loading/unloading, filling stations, training

requirements, outdoor chemical storage, security footage storage and release reporting requirements. The subject property is located at 1400 Waltham Way, APN 004-091-81, McCarran, Storey County, Nevada.

**Senior Planner Canfield:** Stated that this is an amendment to a special use permit issued to AUECC in September of 2017. AUECC has activated their SUP and have been doing construction on the site. They are getting close to finishing construction and would soon like to begin operations. The request is to amend some of the language in the SUP specifically five different conditions out of the 33 conditions that were approved in 2017. When AUECC originally began this process with Storey County the SUP was their first step and since this use was so unique, staff completed a very detailed review of the project which resulted in very detailed conditions of approval. What AUECC is finding now is that sometimes the very detailed conditions don't necessarily match with the other regulatory agencies' best practices and regulations that they are requiring. Staff is proposing to modify five conditions so that AUECC can meet the requirements of the other agencies along with county requirements. In no way do any of these modifications change the safety requirements that we have placed on the project, it is just looking at different ways to reach the same goal. AUECC staff is here tonight and have a brief presentation.

**Curtis Dove, Global CEO for AUECC:** He introduced Danielle Knight, Environmental Health and Safety Manager and Jared Kerney, Plant Manager. Mr. Dove said they are at the completion phase of the project and looks at this as the "as built" situation after they have gone through the detailed design and regulatory compliance and permits.

**Danielle Knight** shared her screen for the presentation: A quick recap of who AUECC is; a purifier of commonly used industrial grade chemicals specifically acids and bases with a few solvent processes. All of the processes involve filtration, dilution, absorption and condensation. These are very simplistic processes not involving a chemical reaction. The end consumer would be those manufacturers of computer chips. In September of 2017, our SUP was issued. There were some broad brushstrokes used in the language that could prohibit AUECC from operating all of the processes and compliance with other regulatory agencies. Over the past three years we (AUECC) have had a plethora of other agencies that we have to comply with including federal, state and of course the special use permit. AUECC falls under the NDEP Chemical Accident Prevention Program (CAPP). It is a very involved process designed to go through each one of AUECC's processes item by item to ensure that all the industry standards are considered. We want to ensure that the SUP accurately reflects how the systems are going to run. Special Use Permit Clarifications:

-Generalized language was used to limit the chemical list; however, this would prevent AUECC from having diesel fuel required to run fire water pumps and simple water treatment chemicals used for drinking water disinfection.

-Forklift limitations that restricted moving "bulk" containers; however, bulk is not defined. It is required to use forklifts to move 55 gallon drums and Intermediate Bulk Containers (IBC) aka totes.

-Language in the existing SUP does not apply to all AUECC chemicals, Example: Water Fog Deluge would not be appropriate for Sulfuric Acid (a water reactive chemical with negligible vapor pressure)

-In cooperation with County Departments over the past year, AUECC has prepared these clarifications for consideration.

-As requested by County officials, these clarifications have been assessed by a third party consultant, McGinley and Associates.

**Senior Planner Canfield:** Stated that this application has also been reviewed by the county Fire Marshal Martin Azevedo. He is available tonight to answer any questions.

**Martin Azevedo, Fire Marshal:** Said that everyday chemicals like diesel or gasoline are defined within Fire code section 105. This basically states what they can have in the building and outside the building without a permit. They do fall under the State Fire Marshal guidelines for permitting. Said he has reviewed those documents with the State Fire Marshal's office and have had conversations with (inaudible) regarding this. Said he is confident with the permitting process with the State.

**Commissioner Prater:** Asked the applicant why there is a problem with 24/7 surveillance.

**Danielle Knight:** Said they are not trying to overlook the 24/7 surveillance, however the way section in the current SUP is written requires AUECC to maintain 90 days of video footage and that gets into a data management problem. We (AUECC) are compliant with the Department of Homeland Security requirements and that is a non-prescriptive standard that only requires something that is more appropriate for our operation. From a data management standpoint 90 days of data video management would be poor resolution as compared to thirty days. We are proposing to store thirty days of footage which is the standard for Department of Homeland Security, thirty days of 24/7 surveillance footage.

**Senior Planner Canfield:** Stated that the condition will say that surveillance must comply with the Department of Homeland Security recommendations.

Planning staff did not receive any comments from the public regarding this item.

**Chairman Hindle** opened Public Comment. There was none.

**Motion:** In accordance with the recommendation by staff, the Findings of Fact under Section 5.A of this report, and other findings deemed appropriate by the Planning Commission, and in compliance with the conditions of approval, I Larry Prater, recommend approval of Special Use Permit Amendment 2017-020-A1-2020 to modify the language associated with Conditions of Approval C, D, S, T and BB which relate to chemical and substance inventory, outdoor loading/unloading, water/fog deluge systems, bulk product loading/unloading, filling stations, training requirements, outdoor chemical storage, security footage storage and release reporting requirements. The subject property is located at 1400 Waltham Way, APN 004-091-81, McCarran, Storey County, Nevada., **Action:** Approve, **Moved by** Commissioner Prater, **Seconded by** Commissioner Thompson,

**Senior Planner Canfield** read the findings into the record:

(1) This approval is for Special Use Permit Amendment 2017-020-A1-2020 by applicant Asia Union Electronic Chemicals – Reno, Inc. (AUECC). The applicant requests an amendment to Special Use Permit (SUP) Number 217-020 to modify the language associated with Conditions of Approval C, D, S, T and BB which relate to chemical and substance inventory, outdoor loading/unloading, water/fog deluge systems, bulk product loading/unloading, filling stations, training requirements, outdoor chemical storage, security footage storage and release reporting requirements. The subject property is located at 1400 Waltham Way, APN 004-091-81, McCarran, Storey County, Nevada.

(2) The Amended Special Use Permit 2017-020-A1-2020 conforms to the 2016 Storey County Master Plan for the McCarran planning area in which the subject property is located.

(3) Granting of the Amended Special Use Permit 2017-020-A1-2020 modifying Conditions of Approval C, D, S, T and BB, will not under the circumstances of the particular case adversely affect to a material degree the health or safety of persons/property in the neighborhood of the subject property and will not be materially detrimental to the public welfare or materially injurious to property improvements in the neighborhood or area of the subject property.

(5) The Amended Special Use Permit 2017-020-A1-2020 modifying Conditions of Approval C, D, S, T and BB will not impose substantial adverse impacts or safety hazards on the abutting properties or the surrounding area, and it will comply with all federal, state and county regulations.

(6) The conditions under the Amended Special Use Permit 2017-020-A1-2020 modifying Conditions of Approval C, D, S, T and BB do not conflict with the minimum requirements in the Storey County Zoning Ordinance.

**Vote:** Motion carried by unanimous vote (**summary:** Yes=7).

Commissioner Thompson left the meeting due to another obligation.

**7. Discussion/Possible Action:** Special Use Permit 2020-026 is a request to allow for construction of a 110-foot high public service communication facility associated with the existing Storey County sewer treatment plant. The project includes a tower, equipment shelters and other associated equipment. The tower will be located on the property associated with the Storey County Wastewater Treatment Plant at 1001 Six Mile Canyon Road, Virginia City, Storey County, Nevada and being a portion of Assessor's Parcel Number (APN) 001-311-04.

**Senior Planner Canfield:** Summarized the request for a tower to house public service equipment that is associated with the Virginia City Wastewater treatment plant. The plant is on Storey County property that was acquired from the Bureau of Land Management (BLM) and as such the land must be used for public service or recreation land uses. The tower will be approximately 110 feet tall and will allow for wireless communications at the sewer treatment plant along with providing some other public services at that area of town which has limited coverage. The project is going through the Comstock Historic District review and staff is recommending approval. During the noticing period there have been no public comments received. James Deane IT Director is here to answer questions if needed.

**James Deane, IT Director:** Said that this tower is for all internal Storey County usage and to support of the existing water treatment plant microwave shop and water tower. It will also be a relay point for our "in town" building to building microwave communications. In the future we will probably use it for the new approved Motorola 911 radio system replacement.

**Chairman Hindle:** Asked for public comment, there was none.

**Motion:** In accordance with the recommendation by staff, the Findings of Fact under Section 3.A of this report, and other findings deemed appropriate by the Planning Commission, and in compliance with the conditions of approval, I Adrianne Baugh, recommend approval of Special Use Permit 2020-026 to allow for construction of a 110-foot high public service communication facility associated with the existing Storey County sewer treatment plant. The project includes a tower, equipment shelters and other associated equipment. The tower will be located on the property associated with the Storey County Wastewater Treatment Plant at 1001 Six Mile Canyon Road, Virginia City, Storey County, Nevada and being a portion of Assessor's Parcel Number (APN) 001-311-04., **Action:** Approve, **Moved by** Commissioner Baugh, **Seconded by** Commissioner Staples,

Senior Planner Canfield read the findings into the record:

(1) This approval is for Special Use Permit 2020-026 to allow for construction of a 110-foot high public service communication facility associated with the existing Storey County sewer treatment plant. The project includes a tower, equipment shelters and other associated equipment. The tower will be located on the property associated with the Storey County Wastewater Treatment Plant at 1001 Six Mile Canyon Road, Virginia City, Storey County, Nevada and being a portion of Assessor's Parcel Number (APN) 001-311-04.

(2) The Special Use Permit conforms to the 2016 Storey County Master Plan for the Public Facilities designated area in which the subject property is located. A discussion supporting this finding for the Special Use Permit is provided in Section 2.D of this staff report and the contents thereof are cited in an approval of this Special Use Permit. The Special Use Permit complies with the general purpose, goals, objectives, and standards of the county master plan, the zoning ordinance and any other plan, program, map or ordinance adopted, or under consideration pursuant to the official notice by the county.

(3) The proposal location, size, height, operations, and other significant features will be compatible with and will not cause substantial negative impact on adjacent land uses, or will perform a function or provide a service that is essential to the surrounding land uses, community, and neighborhood.

(4) The Special Use Permit will result in no substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the county master plan, this title, and any other plans, program, map or ordinance adopted or under consideration pursuant to an official notice, by the county, or other governmental agency having jurisdiction to guide growth and development.

(5) The proposed use in the proposed area will be adequately served by and will impose no undue burden on any of the improvements, facilities, utilities, or services provided by the county or other governmental agency having jurisdiction in the county.

(6) The Special Use Permit, with the recommended conditions of approval, complies with the requirements of Chapters 17.03.150 – Special Use Permit, 17.12 – General Provisions, and 17.32 - Forestry Zone.

(7) The proposed project is an accessory use to the existing Storey County sewage treatment plant, and therefore is consistent with the land acquisition requirements of Patent 27-2014-0006.

**Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

**8. Discussion/For Possible Action:** Bill 118/Ord 20-307 Text amendments to Storey County Code Title 17 Zoning Districts CR Commercial-Residential; C Commercial; R1 Single-Family; R2 Multi-Family Residential; E Estate; F Forestry; A Agriculture; I1 Light Industrial and I2 Heavy Industrial; NR Natural Resources and SPR Special Planning Review zones. Additions,

modifications, elimination and clarifications including the listed land uses, minimum floor area, setbacks, minimum parcel area, distance between buildings and home enterprises are proposed.

**Senior Planner Canfield:** This is the last phase of the Title 17 update. We have had thirteen planning commission meetings to discuss these changes. We have adopted the three other pieces of this Title (General Provisions, Administrative Provisions and Definitions). Staff is updating the zoning district sections to make them more consistent and align with each other. Updates include the changes to General Provisions and Definitions. The amendments will address the setbacks for the R1, R2, CR and the E zones as well as the I1 and I2. The update is also adjusting allowable uses in the Forestry (F), Agriculture (A), and Natural Resources (NR) zones. We have also added language to make consistent the minimum home size of 800 square feet for a one bedroom, 1000 square feet for a two bedroom and 1200 square feet for a three bedroom, where a single family dwelling is allowed. This language is currently in the Estate and R1 zoning. CR zoning already allows a home under 800 square feet with a special use permit. Commissioner Pellet raised the issue of minimum home size and that it warranted more discussion.
Any changes that are proposed will not affect the 10 acres and 1 acre homeowner's associations because they already have a minimum home size set at 1200 square feet.
Staff is recommending to keep the 800 square foot minimum in all zones, but understands that there are some other opinions on this. Staff did receive a letter this afternoon from Mr. Herrington objecting to Tiny Homes concept being allowed in the Estate zoning. This was forwarded to the commissioners.

**Commissioner Prater:** Said that he agrees with Mr. Herrington and doesn't think Tiny Homes are appropriate here.

**Commissioner Pellett:** Asked staff if the 800 square feet is chosen for a reason and where does the 800 square feet come from. Proposes a size that would still allow for proper ingress and egress and all meets all requirements of the building code, and one that works for the resident.

**Chairman Hindle:** Really talking not about Tiny Homes, but small construction.

**Commissioner Staples:** Asked if current existing structures are "grandfathered" in if setbacks change and ownership changes. (brought up in reference to a letter from resident Clay Mitchell).

**Senior Planner Canfield:** Setbacks are proposed to be less restrictive so that would not be an issue, however if something was legally established and the zoning changed it would be "grandfathered" in or legally non-conforming. Ownership changes won't affect the zoning.

Discussion between Commissioners Pellett, Staples, Chairman Hindle and staff regarding an inquiry from Clay Mitchell and whether or not the setback change and wording which included a property he owns will be affected negatively.

**Clay Mitchell, Gold Hill property owner:** Said he has an industrial building in I2 zoning that encroaches in to the 50' setback that is proposed to be added in 17.35.050 because it abuts on another I2 parcel that has an existing residential use. Said he doesn't believe that it is a permitted use but is a "grandfathered" use. Concern is that the proposed setback language would somehow invalidate future industrial uses because it is within that setback.

**Senior Planner Canfield:** The language now states that the setback in the I2 zone is 50 feet. We are not proposing to change Clay's situation at all. The proposed new language states "the required distance between the building and the property line is ~~20~~ *0* feet. *The principal building must be setback at least 50 feet from an abutting CR, E, R1, R2, and SPR zone and existing residential uses. Building setbacks must also conform to section 17.34.060 and building and fire codes."*

Canfield said that we can remove the wording "and existing residential uses".

**Gary Mack, Highlands resident:** Thanked the commission for letting him speak and apologized that this is late in the review process. Commented on the minimum home sizes in the 40 acres. Stated that there are roughly 593 lots in the E40 zone. Approximately 23 of those are "coded" now as single family residence which means 570 are vacant lots. There is no POA in the 40s to assist with road maintenance and the county doesn't provide any kind of infrastructure, maintenance, or snow removal during the winter months. The 40s are a very unique area. Per existing county requirements nobody can build a house on a property in the 40s or anywhere else in the county unless they have a producing well or are connected to a municipal water system and have a State septic system, etc. Then and only then can they talk to the county about a building permit. What that means for people in the 40s is that you have to build an access road to your property which can be a complex and costly thing, then level out the land for a well and septic and bring power in to run the well. All of those steps are not easy and are extensive due to rough terrain including finding a contractor willing to do the work that is needed, all the grading, etc. A land owner that is dedicated to living off grid in a self sufficient way and have the resources, before they build a house, and invest a 100k dollars before they even break ground for a house, should be able to build smaller than the required 800 square feet minimum home requirement. Mack said that in his research he did not find that the minimum 800 square feet is rooted in the IRC (International

Residential Code). It does state that there must be "living space", bathroom, kitchen, etc. and there are certain sizes for the rooms and the setbacks that go into those rooms, but there is no minimum requirement for a house. In 2015 the IRC implemented Appendix Q in draft form and believes that addresses homes that are less than 400 square feet. Clearly the IRC doesn't contemplate 800 square feet as the minimum house. Many people that own property in the 40s own it as an investment and don't plan on living here and want to flip it at some point. Said that is going to be difficult based on what he just talked about. There are people that would like to build a small home and live in the 40s off grid full time. Unfortunately, the cost of all the things outlined can be prohibitive. In addition, many people don't feel the need to build a house that is larger than they need or desire and unnecessarily impacts the rugged and unique environment out in the 40s. Said that he respectfully asks that the commission give serious consideration to lowering the minimum house size in the E40 zone. Clearly house sizes need to meet the IRC. Nobody is arguing for a house that does not meet the IRC code. Said he is in a "social group" of about 23 people and has reached out to them and gotten some positive responses, no negative responses except maybe from John Herrington (reference to letter regarding home size submitted). Comment on Tiny Homes; these are mobile, they're on a trailer bed, two or three hundred square feet and nobody out here (40s) wants that. Said that he is suggesting 500 or 600 square feet as a minimum.

**John Herrington, 40 acre property owner:** Said he agrees with Gary (Mack) that we are in a rugged area but said nobody goes out and buys 40 acres in Nevada without knowing that there's going to be substantial expense. Mentioned a couple of his neighbors who have invested six to seven hundred thousand dollars to build their homes, and to have a neighbor come in that's going to put a small house that doesn't meet the Storey County Master Plan as it is, we need to consider that substantially.

**Commissioner Prater:** Said he has lived in the Highlands for 40 years and does not want to see tiny houses popping up around here. Said he thinks that on a 40 acre property, anything less than 2000 square feet is inappropriate. Bring a travel trailer in if it is just to visit the property. It (maintaining the minimum home size) protects our property values.

**Clay Mitchell, Virginia City resident:** Said he appreciates the work that has been done to make the zoning districts align with each other, cleans things up and makes things easier to understand. Mitchell said he would also advocate for reducing the minimum house size to allow for flexibility and freedom for use of your property. Said he is not advocating for one particular zone because he agrees that consistency is preferrable throughout the county zoning ordinance. If there is a need to have a stricter standard in a particular zone, he would not be necessarily opposed to that. There are many homes in Virginia City and other parts of the county smaller than 800 square feet. The proposed change is to carry that 800 square feet minimum in all zones. Does not think it is good policy to be more restrictive than the county needs to be and if there is a need, there are HOAs that can assign further restrictions. Mitchell said he thinks the right solution for the county as a whole is more broad, more open, and more freedom as opposed to less. Not advocating for Tiny Homes that are not up to code, but homes that meet all the building codes.

**Gary Mack, 40s resident:** Said his perspective is that the property owner should be able to do fundamentally what they want as long as they're not interfering with other people and causing havoc to neighbors etc. Said he understands the concern about having a $500k house sitting next to a $150k house, but sadly or realistically that's life the way things are. Asked the commissioners how they are grounding that minimum. It is not in the IRC. The 800 square feet seems arbitrary. Said he is not advocating for three or four hundred square foot homes.

**Senior Planner Canfield:** Said that Jana Seddon, the assessor couldn't be with us tonight. She has concerns from the aspect of having a house too small because of the potential of it being picked up and easily moved or pieces left behind and property being left. She didn't necessarily have an opinion on 800 square feet or what size it should be, but just had concerns with a small home being easily moved and real property disappearing overnight.

**County Manager Osborne: Said t**he assessor has expressed concern and we are not talking on her behalf necessarily. She has said that when you get under that 800 square feet, you start getting into the DOT standards for measurements. Unlike a mobile home that can be moved, but it is quite an operation to do that, a "tiny house" that is approximately 10 feet wide by however many feet long, etc. can be hooked up and trailered away. If the property owner does not pay their taxes the county is obligated by law to hold the property and go through the necessary procedures to auction the property, and if the house is missing in a case like this a county cannot deal with property properly because the home has been removed and it becomes complicated. Processes like this can take years and years to try to straighten these types of things, out so that the county can auction the properties.

**Chairman Hindle:** Clarified that what we are discussing are homes less than 800 square feet on a permanent foundation, constructed to building codes, meaning a permanent home, not something that can be hauled away easily. Commissioner Pellett concurred and stated that her assumption would be that the county is not collecting many more taxes on an 800 square foot home as opposed to a 600 square foot home.

**Senior Planner Canfield:** Clarified that the revision is written to make every zoning district that allows for single family dwellings consistent with the existing minimum home size of 800 square feet for 1 bedroom, 1000 square feet for 2 bedrooms and 1200 square feet for 3 bedrooms. This is the existing code language in the R1 and Estate zones. Said she added that language to the other zoning districts that allow for a single family residence. The new discussion is whether or not to change the minimum home size in any residential zone. There is existing language in the CR zone that allows for a less than 800 square feet dwelling with a special use permit and that is not changing.

**Commissioner Hindle** asked the commission if it would like to make a motion to approve the bill as it is or amend the bill.

Discussion continued regarding the pros and cons of adjusting the minimum home size in single family residential zones and how to potentially amend the code to include building requirements for small homes and how that would work with areas that are governed by an HOA. Discussion also included the idea of simply using building code to dictate minimum home size which could allow for a very small home. Discussion on "arbitrary" minimum home size continued.

**County Manager Osborne:** Commented that whatever the commission decides to do, they should establish some limit to protect to people that are not protected by HOA requirement such as people in the R1 zone in Virginia City or the E1 zone in Mark Twain or the Highland 40 acre area. They invest in a 1500 square foot home or a manufactured/modular home for example and expect their neighbors to have a somewhat similar situation and expect them to be able to invest in their property. Having no limitation whatsoever opens it up to quite virtually anything being built next door and may create a very interesting situation.

**Commissioner Collins:** Commented that for probably about 35 years when he first wanted to build a house, the Building Department told him that he couldn't build anything less than 800 square feet. The minimum has been around for a very long time.

**The commission** decided to continue this item to the next planning commission for further discussion.

No additional Public Comment

**Motion:** Continue this item to the next planning commission meeting, **Action:** Approve, **Moved by** Commissioner Prater, **Seconded by** Commissioner Collins, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6)

9. **Discussion/Possible Action:** Determination of next planning commission meeting.

   **Motion:** Next planning commission meeting to be held on August 20, 2020 at 6:00 P.M. at the Storey County Courthouse, Virginia City, Nevada, Via Zoom, **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Prater, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

   No Public Comment

10. **Discussion/Possible Action:** Approval of claims **–** None

11. **Correspondence (No Action) –** Letter of correspondence received prior to the meeting will be added to the record in the Meeting Minutes. Distributed to the planning commissioners via email prior to the meeting and posted as correspondence on the website. See attached correspondence.

12. **Public Comment (No Action) –** None

13. **Staff (No Action) –** None

14. **Board Comments (No Action) –** Commissioner Prater asked that Kathy be included on her own screen.

15. **Adjournment (No Action) -** The meeting was adjourned at 9:09 p.m.

Respectfully Submitted, By Lyndi Renaud

# STOREY COUNTY PLANNING COMMISSION
## Meeting

Thursday August 20, 2020 6:00 p.m.
26 South B Street, District Courtroom, Via Zoom
Virginia City, Nevada

## MEETING MINUTES

CHAIRMAN: Jim Hindle VICE-CHAIRMAN: Summer Pellett

COMMISSIONERS:
Larry Prater, Kris Thompson, Jim Collins, Adrianne Baugh, Bryan Staples

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1. **Call to Order:** The meeting was called to order by the Chairman at 6:00 P.M.

2. **Roll Call via Zoom**: Jim Hindle, Adrianne Baugh, Larry Prater, Summer Pellet, Jim Collins, Bryan Staples
**Absent:** Kris Thompson

   **Also Present:** Senior Planner Kathy Canfield, County Manager Austin Osborne, Chief Deputy District Attorney Keith Loomis.

3. **Pledge of Allegiance:** The Chairman led the Pledge of Allegiance.

4. **Discussion/Possible Action:** Approval of Agenda for August 20, 2020.

   **Motion:** Approval of Agenda for August 20, 2020, **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Baugh, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

   No Public Comment.

5. **Discussion/For Possible Action:** Approval of Minutes for July 16, 2020.

   **Motion:** Approval of Minutes for July 16, 2020, **Action:** Approve, **Moved by** Commissioner Prater, **Seconded by** Commissioner Collins, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

6. **Discussion/For Possible Action:** Consideration, study and review of proposed amended service plan for TRI GID and possible action to (1) recommend approval, modification, or rejection of the amended plan and (2) appointment of member of Planning Commission to communicate Planning Commission recommendation to Board of County Commissioners.

   **Chief Deputy D.A. Loomis:** Summarized the reasons why the GID service plan is proposed to be amended.
   Probably the most significant amendment is an amendment to allow the TRI GID to incur debt in the course of its operations which it is presently prohibited from incurring. TRI Center LLC has effectively been in charge of the GID through its water and sewer operating company. The contract with the operating company has been terminated and its operation taken over by the GID itself. The GID anticipates seeking loans to fund capital improvement projects and accordingly would expect to incur the debt associated with those loans.
   In order to amend a service plan, the GID is required to file its proposed amended plan with the County Clerk who, in turn is required to deliver the proposed amended service plan to the planning commission. Under NRS 308.070(4) the planning commission is required to "study such service plan and a representative thereof shall present its

recommendations consistent with the Special District Control Law to the board of county commissioners at the hearing." NRS Chapter 308 is titled the Special District Control Law. NRS 308.010(3) sets out the purpose of the law as : "It is the purpose of the Special District Control Law to prevent unnecessary proliferation and fragmentation of local government, to encourage the extension of existing districts rather than the creation of new districts and to avoid excessive diffusion of local tax sources." In order to accomplish this purpose the proponents are required to file a service plan with the County. NRS 308.030 sets out the requirements of the service plan as follows:

1. Any prospective petitioner for the establishment of a special district shall file a service plan with the board of county commissioners of each county which has territory included within the boundaries of the proposed district. The service plan shall:

(a) Consist of a financial survey and a preliminary engineering or architectural survey showing how the proposed services are to be provided and financed.

(b) Include a map of the proposed district boundaries, an estimate of the population and assessed valuation of the proposed district.

(c) Describe the facilities to be constructed, the standards of such construction, the services to be provided by the district, an estimate of costs, including the cost of acquiring land, engineering services, legal services, proposed indebtedness, including proposed maximum interest rates and any discounts, any other proposed bonds and any other securities to be issued, their type or character, annual operation and maintenance expenses, and other major expenses related to the formation and operation of the district.

(d) Outline the details of any arrangement or proposed agreement with any city or town for the performance of any services between the proposed special district and such city or town. The form of any such contract to be used, if available, shall be attached to the service plan.

Ê If a board of county commissioners initiates the formation of a special district, it shall prepare such a service plan as an appendix to its initiating resolution.

2. Except where the formation of a district is initiated by a board of county commissioners, each service plan filed shall be accompanied by a processing fee set by the board of county commissioners not to exceed $200 which shall be deposited in the county general fund. Such processing fee shall be sufficient to cover the costs related to the hearing prescribed by NRS 308.070, including the costs of notice, publication and recording of testimony.

**Shari Whalen, General Manager for TRIGID** (Tahoe Reno Industrial Center General Improvement District): Presented an update on what's happening with the TRIGID and the changes to the service plan; the service plan is almost 20 years old and a lot has changed in the TRIC which is our water and sewer service utility area. There is "housekeeping" that is occurring. Said there is now five full time employees working for the TRIGID. We are taking over all operations; financial, accounting, operators, etc. from the TRI Water and Sewer Company. In 2016 the GID did their first rate study and since 2016 the GID which has been operating without subsidy from TRI Water and Sewer Company (portions of this conversation were inaudible). Whalen highlighted some significant changes to the service plan:

-Reference to **requirements** of the TRI Water and Sewer Company or TRIC LLC for funding of operations of the TRIGID have been removed and are no longer a requirement under any contract. Those are all taken out of the service plan. Those also been removed from the water and sewer rules which have been included as an attachment to the service plan.

-An important thing to note in the service plan is that when the GID was formed the service plan precluded the GID from incurring any debt which made sense because the Water and Sewer Company was subsidizing the GID. Today the GID is operating independently of that old contract and there is no requirement for subsidy from the master developer or TRI Water and Sewer Company. In looking at the GID's capital improvement program, we (GID) want to be able to responsibly incur debt as a tool to fund future capital improvements. The GID is particularly interested in state revolving loan funds which are principal forgiveness loans that are a very beneficial tool for a utility to improve their water and sewer infrastructure. One of the changes to the service plans is to allow the GID to incur debt.

Discussion between Chairman Hindle and Ms. Whalen regarding some details and clarifications to the amendment of the service plan. (portions of the conversation were inaudible).

**Chairman Hindle asked Deputy D.A. Loomis** if the county has gone through a similar process of accepting a service plan from the Lockwood GID. Loomis said that not since he has been with the county, but the statutes in chapter 309 Special District Control Law requires that the proponent of the amendment to the service plan appears before the planning commission and the commission should study the proposed amendments to the service plan to either accept, reject or modify the amendment.

**County Manager Osborne:** Added that the amendment proposed does not in any way change the status of the TRIGID. It is still a separate local government and is not affiliated with Storey County. Even if one day the board of county commissioners were to consider becoming the ex officio board, it would still maintain a separate local government status. Asked Keith Loomis to expand on this.

**Deputy D.A. Loomis:** Chapter 318 which is the one that governs GIDs in particular does provide that the board of county commissioners can be ex officio the board of trustees of the GID. That doesn't make the GID a department of the county. It is still a separate independent government entity that is governed by the board of trustees in an ex

officio capacity.

No Public Comment

**Motion:** (1) Move to approve proposed amendment to the service plan for TRIGID, **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Prater, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

(2) With no objections by the commission, Chairman Hindle offered to be representative of the Planning Commission to communicate Planning Commission recommendation to Board of County Commissioners. No official motion or vote was taken.

7. **Presentation (Annual SUP Update):** By Comstock Mining, LLC. (Gold Hill/American Flat) Special Use Permit Holder to present its annual compliance review in accordance with the conditions of Special Use Permit No. 2000-222-A-5.

Scott Jolcover, Comstock Mining Inc. presented a power point presentation (see attached). No active mining has taken place in 2019 through August of 2020.

- **Site Overview and Disturbance Acreage:** No changes to this in the last 12 months.

- **Review of SUP Compliance:** Compliant in all requirements of SUP.

- **Silver City Water Line Protection:** No mining took place in proximity to the Silver City Water Line.

- **Reclamation:** Successful earthwork completed for Hartford, Keystone, and Justice. No evidence of erosion, slumping or slope failure. Met requirements of reclamation permit, earthwork and revegetation. Bond requirement reduced from $7.1 to $6.8 million. CMI exceeded the credited amount by going above and beyond standard requirement including, but not limited to aerial seeding.

- **SR 342-2018 National DOI/BLM Award:** Awarded the 2018 "Fix a Shaft Today" award for the successful filling of the Silver State Mine Shaft and rebuilding of Nevada State Route 342 in Storey County.

- **Monitoring Report:** Dust monitoring will resume with future mining activities. Groundwater regular monitoring as required by permits. No noise issues were reported in the last 12 months. No blasting activities occurred in the last 12 months.

- **Tonogold Update:** Comstock Mining LLC membership interests are in the process of being transferred to Tonogold Resources Inc which will own the Lucerne mine property. In January 2019, a new Agreement was signed that allowed Tonogold to acquire 100% of Comstock Mining LLC, and provided an option for them to lease the American Flat facility for processing. This replaces the original Option. Tonogold has been meeting requirements and the transaction is expected to close in September of 2020. Tonogold has received permits from Storey County to commence drilling on parcels outside of the SUP which will likely start in September of 2020. Once the transaction closes, Comstock will notify the Planning Department, and add Comstock Processing LLC to the Special Use Permit, such that Comstock Mining LLC continues to be responsible for the Lucerne Mine, and Comstock Processing LLC will be responsible for the American Flat processing facility. The map has not changed in regards to the parcels in American Flat on the borderline of the SUP.

- **Mercury Clean Up (MCU):** Mercury Clean-Up LLC (MCU) is a full time global environmental company dedicated to the recovery and removal of Mercury from contaminated soils left behind by both past and present gold mining activities. MCU is committed to stopping the spread of elemental and Methylmercury. Comstock has invested $3M in MCU to date has committed an additional $2M to date to support this important technology. The United Nations signed an accord, it was called Minamata with 140 countries on board to basically ban the use of Mercury and do whatever possible to clean up Mercury pollution. MCU is using Comstock's American Flat facility to test and fine tune their mercury recovery technology in a two-year pilot test. Testing will be performed in full compliance with NDEP regulations and Comstock's approved Mercury sampling and analysis plan.

- **Comstock Foundation for history and culture:** Discussed long range plans to address the preservation of historic structures. Fully document or mitigate archaeological or surface resources affected by any undertaking. Foundation support includes a 1% Net Smelter dedication. From 2012-2016 Comstock Mining generated $899,000 in royalties. Contributions to the foundation totaled $935,000.

- Completed a third party audit of the Net Smelter Royalty at the request of Storey County and executed the SUP memorandum of understanding on February 18, 2020.

**County Manager Austin Osborne:** Said that Mr. Jolcover has been incredible at communicating with Senior Planner Canfield and me. He keeps us updated with any movements that are going on and brought the Tonogold folks to talk with us about any changes that are happening. The financial assessment review of the 1% net smelter return into the Comstock Foundation for historic preservation projects is currently being reviewed by the Comptroller's office and appears to be accurate. The board of county commissioners also made an amendment to the special use permit that all of that money henceforth be used in historic preservation projects in Storey County. Osborne said that the planning department and he have not seen any non-compliance issues from NDEP or the regulatory agencies.

**Chairman Hindle:** Comstock Mining has lived by the spirit and letter of this agreement. Said he is very complimentary of Scott and the other management. Hindle said that Comstock has proven that they can and are a responsible mining company.

**8. Discussion/For Possible Action:** Bill 118/Ord 20-307 Text amendments to Storey County Code Title 17 Zoning Districts CR Commercial-Residential; C Commercial; R1 Single-Family; R2 Multi-Family Residential; E Estate; F Forestry; A Agriculture; I1 Light Industrial and I2 Heavy Industrial; NR Natural Resources and SPR Special Planning Review zones. Additions, modifications, elimination and clarifications including the listed land uses, minimum floor area, setbacks, minimum parcel area, distance between buildings and home enterprises are proposed.

**Senior Planner Canfield:** This is the commission's 15th meeting talking about this item. At the last meeting the sticking point was the minimum home size requirement for a residential unit in each chapter. One of the comments at the last meeting was to potentially reduce the minimum home size requirement to whatever the building code requires for size. Canfield said that she met with one of the building inspectors who researched the building code and she doesn't believe that this is going to do what we were hoping it would do. Minimum habitable room areas must not have less than 70 square feet. There are some other requirements such as dimensions, etc. but actually the requirements are very minimal which could allow for a very small home and it really depends on how it is designed. The idea just to rely on the building code could allow for homes that are very small and smaller than what was discussed at the last planning commission meeting. Staff is still recommending that the county keep the minimum home size consistent with how the R1 and the Estate zone is written currently and is proposing to move those same requirements (800, 1000 and 1200 square feet) to be consistent, throughout the code, in the Forestry (F), Agriculture (A) and the Natural Resources (NR) zones. Currently in Forestry there is no requirement, but there is the requirement to get a special use permit for a residence. This is the same for the NR zone. Another thing to consider is that if the square footage requirement is changed from 800 square feet (1 bedroom), does the square footage change for 2 bedrooms (1000 sq ft) and 3 bedrooms (1200 sq feet)? Canfield said that she would like to wrap this up, and potentially back away from the change regarding square footage if the commission cannot come to some kind of an agreement. Noted the correspondence from John Herrington regarding not allowing "tiny homes" in the 40 acres.

**Chairman Hindle** asked if there was any additional comment from the board and particularly Commissioner Pellett as to the minimum home size requirement. Pellett said that she stated her opinion at the last meeting and does not feel it necessary to comment further.

Public Comment:

**Gary Mack, resident:** Said he is curious as to the justification for 800 versus 750 versus 600 versus 650 and would like to note that the letter from John Herrington will be included in the record. Said that so far he hasn't seen it in any documentation that has come out from the committee. Mack said that all of the testimony that he has from himself and other residents, a dozen or more out here (40s) has been done verbally. Added that at a $200 square foot typical cost to build, every one hundred square feet is $20,000 in additional cost to citizens of the county. Would like the board to recognize that every hundred square feet is a significant cost savings.

**Chairman Hindle:** Correspondence and testimony will be included in minutes of the meeting.

Discussion between Staff, the commission, and the public. Points and discussion included:

- Minimum square footage has been 800 square feet since 1999 or prior (Canfield)
- Virginia City has numerous homes, potentially historic, that are under 800 square feet (Gary Mack)
- 800 square foot minimum is arbitrary, and why not 700 square feet (Pellett)

- Smaller homes (smaller than 800 sq ft) in other jurisdictions may have other variables/requirements such as how many people can occupy it, how many rooms, characteristics of a kitchen/bathroom, etc. (Hindle)
- Construction costs are generally $200 to $250 a square foot currently, should be some limit set for home size, 700 sq ft is a sizeable home (Collins)
- Less than 800 square feet is currently allowed for a dwelling in the CR zone (Canfield)
- Large and small homes can potentially be moved, just harder to move a large home. (Hindle and Collins)
- Assessor's office says homes under 800 square feet may get into DOT requirements for moving it. (Osborne)
- Discussions have been had before during the "Dean Haymore" days and if someone wanted to build a $2M house out in the 40 acres that was fine but if the neighbor wanted to put a trailer and sani hut on their property that was a problem because there was no HOA. This is a "buyer beware" type of situation. (Prater)
- Believe that sovereignty of the land owner to do what they desire within reason; problem is that the commission is trying to decide what "reason" is. It is reasonable to try and accommodate the assessor's concern. (Hindle)
- Difference of assessment of vacant land and occupied land and the result of non-payment of taxes. Result is the same if someone is not paying or not the same. (Pellett and Canfield)

**County Manager Osborne:** Said he is trying not to take a position on this because there is an argument on both sides. This is a philosophical argument as well as a planning argument. The 800 square feet has been the code since 1999. Dean Haymore and his group put the original zoning ordinance back together. This was a carryover that has occurred and tiny house had not been discussed until recent times and seems to have become a trend. They have been considered in the commercial residential zone in downtown Virginia City because of historic uses and things that existed in the past. He has told people in the past to build 500 square feet on the first floor and the rest in the attic. You essentially have your tiny house. That is one way to work around the existing requirement of 800 square feet to create a "tiny house" footprint and still maintain the necessary square feet. In the Highlands there are protections in the tens and ones because of the HOA restrictions but the 40s are not (protected). Most people there (40s) are building four or five hundred thousand dollar homes including the property, well, septic, and then potentially a neighbor could bring in a tiny house that is a comparable house (rest of comment was inaudible).

**Commissioner Pellet** commented that a house with a downstairs that has 500 square feet on the first floor and a second story house in the attic, could still be moved. Stated that she doesn't feel that it's the governments job to dictate that someone would have to have the attic; it's an arbitrary requirement. Also stated that this is "your property, it's your investment and if somebody really is concerned about what their next door neighbor is going to have, I feel like that's when they move into HOA type communities versus moving onto a plot of land that is not restricted by an HOA." Stated that she wants to make sure that the requirements that the government places have a reason for them.

**Senior Planner Canfield:** Recapped where we are at in this process. All of the other changes to Title 17 have been adopted except for the zoning district revisions. The issue of size in the R1 and the Estate zone which is not only the Highlands but it is also Mark Twain and portions of lower and upper Virginia City already state the minimum square footage for a single family dwelling be 800 square feet for a 1 bedroom, 1000 square feet for 2 bedrooms and 1200 square feet for three bedrooms. No proposal has been made by staff to change that. The only proposal to the remaining zoning districts and in particular the Forestry, Agriculture and Natural Resources zones, is to make the minimum home size consistent with the R1 and Estate zone that already require a minimum of 800 square feet. Changing the minimum home size to something smaller than 800 square feet was not what we were looking at when the revision to Title 17 began.

**Commissioner Pellett:** Said that this is the time to discuss potentially allowing something less than 800 square feet even though that change wasn't being proposed initially. Said she remembers a year or two ago when some property owners came to the planning commission meeting who had been "red tagged" by the Building Department, asking the commission to look at this (allowing a small home), and do something about it. Wants to address the concerns of those people that showed up at that meeting.

**County Manager Osborne:** Stated that he thinks there is not a planning commissioner here tonight that doesn't want to make a motion on this tonight after discussing this for 15 meetings, and the round of zone text amendments prior to the amendment was probably 18 meetings. Osborne said he respects both sides on this issue (small homes).

There was a pros versus cons discussion on potentially approving a portion of the amendment excluding the minimum size requirement proposal in all zoning districts. After additional discussion including comments from the public (Gary Mack) the commission decided to recommend approval of Bill 118 Ord 20-307 as is and revisit potentially changing the minimum home size in the near future.

**Motion:** Approve Bill 118/Ord 20-307 text amendments to Storey County Code Title 17 Zoning Districts CR Commercial-Residential; C Commercial; R1 Single-Family; R2 Multi-Family Residential; E Estate; F Forestry; A Agriculture; I1 Light Industrial and I2 Heavy Industrial; NR Natural Resources and SPR Special Planning Review zones. Additions, modifications, elimination and clarifications including the listed land uses, minimum floor area, setbacks, minimum parcel area, distance between buildings and home enterprises are proposed.
Motion included a modification to the I2 zone to remove "and existing residential uses", **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Prater, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

9. **Discussion/Possible Action:** Determination of next planning commission meeting.

   **Motion:** Next planning commission meeting to be held on October 1, 2020 at 6:00 P.M. at the Storey County Courthouse, Virginia City, Nevada, Via Zoom, **Action:** Approve, **Moved by** Commissioner Pellett, **Seconded by** Commissioner Baugh, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

   No Public Comment

10. **Discussion/Possible Action:** Approval of claims **–** None

11. **Correspondence (No Action) –** None

12. **Public Comment (No Action) –** None

13. **Staff (No Action) –** County Manager Osborne told the commission about open air Town Hall meetings he is having in the different county communities. Osborne said he hosted one last week at the Highlands Mailboxes. A Townhall in Lockwood just north of the Truckee River bridge is scheduled for Thursday August 27th at 5:00 p.m. These meetings are announced in the Comstock Chronicle and at commission and board meetings, County website and Facebook page, and the Highlands Blog, and other community blogs. Commissioner Prater asked about using reverse 911 calls to alert people to the town halls. County Manager Osborne said that the county is very conservative when it comes to using the reverse 911 program. The county works with its Emergency Management Director and the 911 Communications Director and only uses the reverse 911 program only for absolute emergencies.

    **Senior Planner Canfield** talked about coordinating field trips to TRI with the commissioners to show them the changes that are happening and current projects. May have to take commissioners separately due to the Covid issue.

14. **Board Comments (No Action) –**

15. **Adjournment (No Action) -** The meeting was adjourned at 8:06 p.m.

Respectfully Submitted, By Lyndi Renaud

**STOREY COUNTY**
**PLANNING DEPARTMENT**
Storey County Courthouse
26 South B Street, PO Box 176, Virginia City, NV 89440 Phone (775) 847-1144 – Fax (775) 847-0949
planning@storeycounty.org

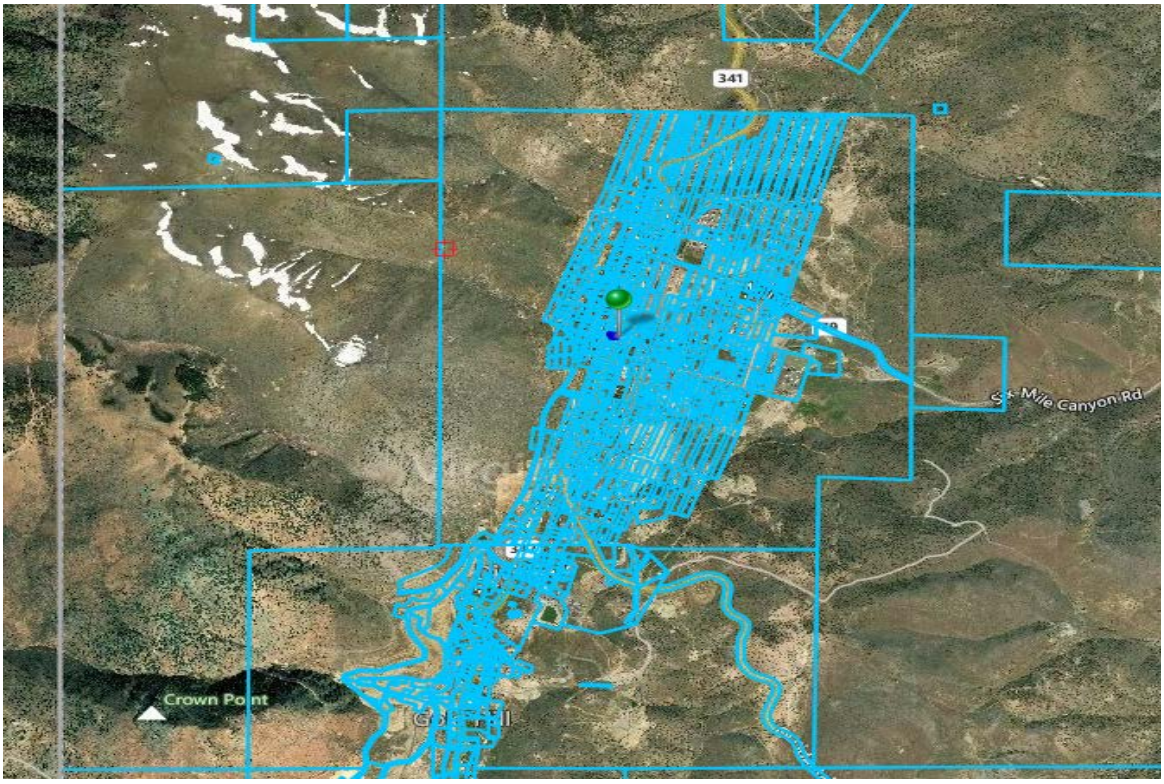
| | |
|---|---|
| **To:** | Storey County Planning Commission |
| **From:** | Storey County Planning Department |
| **Meeting Date:** | October 1, 2020 |
| **Meeting Location:** | Storey County Courthouse, 26 S. B Street, Virginia City, Storey County, Nevada, via Zoom |
| **Staff Contact:** | Kathy Canfield |
| **File:** | 2020-032 |
| **Applicants:** | Corey Dalton and Mark Moglich of Raptors Live LLC |
| **Property Owner:** | Marcella Whalin and Paul Melroy |
| **Property Location:** | 80 South C Street, Virginia City, Storey County, Nevada. |
| **Request:** | The applicant requests to operate a retail establishment and exhibit within an existing building that includes live birds of prey at 80 South C Street, Virginia City, Storey County, Nevada, Assessor's Parcel Number (APN) 001-083-02. The birds will not reside at the site, but will be transported daily by the applicant. No outside display is proposed. |

**1. Background & Analysis**

**A.** **<u>Site Location & Background</u>.** The proposed location is within an existing building at 80 South C Street, immediately north of the town's Visitor Center, in the Old Red Garter Western Wear store in Virginia City. The property is zoned Commercial Residential – CR. Retail establishments are an allowed use for the CR zoning district, however, display or possession of one or more wild animals requires a Special Use Permit be obtained. The applicant is proposing to utilize a second floor mezzanine for the display of the birds and associated merchandise, however, this special use permit addresses the presence of wild animals (birds) within the building and does not limit the location within the building to any particular area.

The applicant has received a State of Nevada business license and has received a Commercial Possession of Live Wildlife License from the Nevada Department of Wildlife. A copy of the Wildlife License and the criteria associated with such license is included in

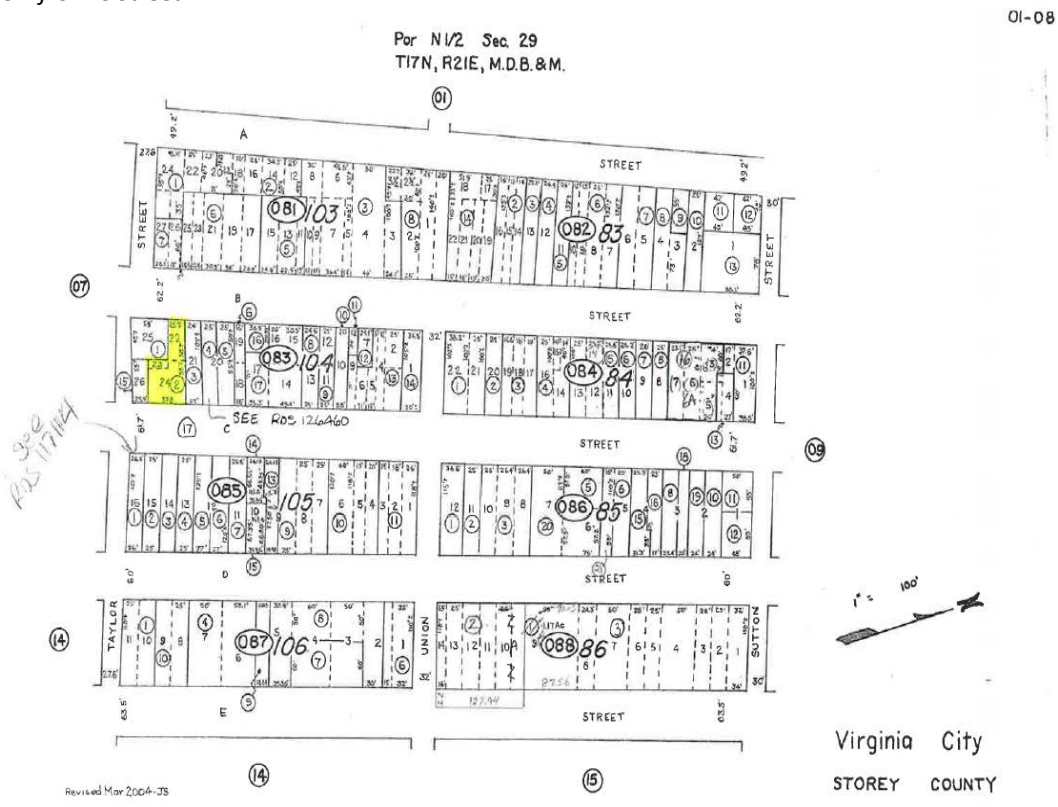
Attachment A of this staff report.




*Vicinity Map*

*Location Map*

*View from C Street*




*Assessor's Parcel Map*

**B.** **<u>Proposed Project</u>**. The applicants propose to operate a retail business within downtown Virginia City with a birds of prey experience. The birds are considered wild animals, and as such, require a Special Use Permit. The business will include merchandise associated with

birds of prey and will also include live birds onsite. Visitors will be able to experience a presentation of the birds, Q&A, and will be able to take pictures both of and with the birds. The birds that will be part of the experience are non-indigenous species, including, but not limited to, raptors such as a Eurasian Eagle Owl, an Ornate Hawk Eagle and a Barbary Falcon. Because the birds were born and raised in captivity, they are used to people and have a calm demeanor.

The birds will not live at the site, but will be transported from the owner's facilities where they are fed and cared for daily. The birds will have an area in a back room of the business for breaks and access to food and water while they are onsite. The birds will not be free-flying around the site and will be tethered to specially designed raptor perches or leather gloves when being held, using a double leash system to prevent them from getting loose.

There may be times where a demonstration of flying may be appropriate or desired outdoors in the Virginia City area. The applicant may apply for a special events permit with the Virginia City Tourism Commission which is independent from this special use permit for such events.

**2. Use Compatibility and Compliance**

**A.** **Compatibility with surrounding uses and zones.** The following table documents land uses, zoning classification and master plan designations for the land at and surrounding the proposed project. There are no evident conflicts between the proposed abandonment and Storey County Title 17 Zoning or the 2016 Master Plan.

| | Land Use | Master Plan | Zoning |
|---|---|---|---|
| Applicant's Land | Commercial | Mixed Use Commercial Residential | CR – Commercial Residential |
| Land to the North | Commercial | Mixed Use Commercial Residential | CR – Commercial Residential |
| Land to the East | Commercial | Mixed Use Commercial Residential | CR – Commercial Residential |
| Land to the South | Commercial/Public | Mixed Use Commercial Residential | CR – Commercial Residential |
| Land to the West | Commercial/Public | Mixed Use Commercial Residential | CR – Commercial Residential |

**B.** **Compliance with the Storey County Code**. The property is located within CR – Commercial Residential zoning district. The display of wild animals is allowed with a special use permit. The use will be located within an existing building utilized as a retail establishment. No construction modifications are proposed for the use and the animals will not live at the site.

**C.** **General use allowances and restrictions.** Storey County Code 17.03.150, Special Use Permit, identifies the administration for the Board and Planning Commission for allowing a special use permit. The approval, approval with conditions, or denial of the Special Use Permit must be based on findings of fact that the proposed use is appropriate or inappropriate in the location. The findings listed below are the minimum to be cited in an approval, with rationale for the findings included below each finding.

**(1) Complies with the general purpose, goals, objectives, and standards of the county master plan, this title, and any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the county.**

The proposed use is identified as a special use for the CR Commercial Residential zoning district in the Downtown District of Virginia City. Commercial uses are allowed within this zoning district and within the Downtown District. The Master Plan encourages enhancement and diversity of the local economy. The downtown area does not have a similar type use.

**(2) The proposal location, size, height, operations, and other significant features will be compatible with and will not cause substantial negative impact on adjacent land uses, or will perform a function or provide a service that is essential to the surrounding land uses, community, and neighborhood.**

The proposed display of birds of prey will be located within an existing retail establishment. No activity associated with this special use permit will occur outside of the building. The birds with be tethered inside of the building and will not be allowed to fly around the inside of the establishment. The birds will not live at this location and will be brought to and from the site with the applicant. If an occasional outdoor display of the birds' talents is proposed, the applicant shall coordinate with the Virginia City Tourism Committee (VCTC) for a special events permit which will be reviewed independently from this special use permit.

**(3) Will result in no substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the county master plan, this title, and any other plans, program, map or ordinance adopted or under consideration pursuant to an official notice, by the county, or other governmental agency having jurisdiction to guide growth and development.**

This use will be located within the Downtown District of Virginia City. A diversity of commercial uses is desired in this location. All activities will occur within the building. The birds will not live at the building but will be brought to and from the site by the applicant.

**(4) The proposed use in the proposed area will be adequately served by and will impose no undue burden on any of the improvements, facilities, utilities, or services provided by the county or other governmental agency having jurisdiction in the county.**

The proposed use is not expected to require any additional governmental services or impact existing facilities.

**D. <u>Compliance with 2016 Storey County Master</u>.**

The proposed abandonment is consistent with the 2016 Storey County Master Plan. The Master Plan has goals and objectives for the Downtown District of Virginia City portion of the Comstock Area Plan including enhancing and diversifying the local economy to promote

commercial businesses with interests for both local residents and tourists. The proposed business is unique to Storey County.

**3. Findings of Fact**

The Storey County Planning Commission shall cite Findings in a recommended motion for approval, approval with conditions, or denial. The recommended approval, approval with conditions or denial of the requested Special Use Permit must be based on Findings. The Findings listed in the following subsections are the minimum to be cited. The Planning Commission may include additional Findings in their decision.

**A.** **Motion for Approval.** The following Findings of Fact are the minimum to be cited for a recommendation of approval or approval with conditions. The following Findings are evident with regard to the requested Special Use Permit when the recommended conditions in Section 4 are applied. At a minimum, an approval or conditional approval must be based on the following Findings:

(1) This approval is to operate a retail establishment and exhibit within an existing building that includes live birds of prey at 80 South C Street, Virginia City, Storey County, Nevada, Assessor's Parcel Number (APN) 001-083-02. The birds will not reside at the site, but will be transported daily by the applicant. No outside display is proposed.

(2) The proposed project complies with the general purpose, goals, objectives, and standards of the county master plan, this title, and any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the county.

(3) The proposal location, size, height, operations, and other significant features will be compatible with and will not cause substantial negative impact on adjacent land uses, or will perform a function or provide a service that is essential to the surrounding land uses, community, and neighborhood.

(4) The proposed project will result in no substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the county master plan, this title, and any other plans, program, map or ordinance adopted or under consideration pursuant to an official notice, by the county, or other governmental agency having jurisdiction to guide growth and development.

(5) The proposed use in the proposed area will be adequately served by and will impose no undue burden on any of the improvements, facilities, utilities, or services provided by the county or other governmental agency having jurisdiction in the county.

(6) The Special Use Permit conforms to the 2016 Storey County Master Plan for the Downtown District portion of Virginia City within the Comstock Area Plan in which the subject property is located. A discussion supporting this finding is provided in

Section 2.D of this staff report and the contents thereof are cited in an approval of this Special Use Permit.

(7) The conditions under the Special Use Permit do not conflict with the minimum requirements in Storey County Code Sections 17.03.150 - Special Use Permit, 17.12 – General Provisions, and Section 17.30 - CR Commercial Residential.

B. **Motion for denial**. Should a motion be made to deny the Special Use Permit request, the following findings with explanation why should be included in that motion.

(1) This denial is to operate a retail establishment and exhibit within an existing building that includes live birds of prey at 80 South C Street, Virginia City, Storey County, Nevada, Assessor's Parcel Number (APN) 001-083-02. The birds will not reside at the site, but will be transported daily by the applicant. No outside display is proposed.

(2) The conditions under the Special Use Permit conflict with the minimum requirements in Storey County Code Sections 17.03.150 - Special Use Permit, 17.12 – General Provisions, and Section 17.30 - CR Commercial Residential.

(3) The conditions under the Special Use Permit do not adequately mitigate potential adverse impacts on surrounding uses or protect against potential safety hazards for surrounding use.

**4. Recommended Conditions of Approval**

**A.** **Special Use Permit**. This approval is to operate a retail establishment and exhibit within an existing building that includes live birds of prey at 80 South C Street, Virginia City, Storey County, Nevada, Assessor's Parcel Number (APN) 001-083-02. The birds will not reside at the site, but will be transported daily by the applicant. No outside display is proposed.

**B.** **Requirements**. The Permit Holder/Licensee shall apply for any/all required permits and licenses, including building and fire permits, for the project within 24 months from the date of final approval of this Special Use Permit, and continuously maintain the validity of those permits/licenses, or this approval shall be null and void. This permit shall remain valid as long as the Permit Holder remains in compliance with the terms of this permit and Storey County, Nevada State, and federal regulations.

**C.** **Permit Contents**. This permit incorporates by reference the standards, objectives, conditions, terms and requirements of all plans and submitted separately from this permit. The requirements of all submitted plan, along with support material submitted with the application, become part of this Special Use Permit.

**D.** **Legal Responsibility**. Issuance of this permit does not convey property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local laws or regulations.

**E.** **Indemnity Defense and Hold Harmless**. The Permit Holder/Licensee agrees to defend, indemnify and hold harmless Storey County, its Officers, Employees and Representatives from any claims, causes of action, damages, fees, including attorney fees or suits arising out of this operation attributable to the negligence or acts of the Permit Holder except for

liability arising out of the sole negligence of Storey County, its officer, employees or representatives

**F.** **Transfer of Rights**. This Special Use Permit shall inure to the Permit Holder and shall run with the land defined herein. Any and all transfers of Special Use Permit 2020-032 shall be advised in writing to the Storey County Planning Department at least 90 days prior to assignee taking over the operation of the facility. Any new Permit Holder/Licensee of the facility must sign and accept all conditions and requirements of SUP 2020-032 prior to any modifications or operations at the facility.

**G.** **Liability Insurance**. The Permit Holder, as well as its assigns, heirs or successors, shall provide proof of insurance to Storey County and maintain a satisfactory liability insurance for all aspects of this operation under Special Use Permit 2020-012 for a minimum amount of $1,000,000.00 (one million dollars).

**H.** **Nevada Department of Wildlife License.** The Permit Holder shall obtain and retain a Commercial Possession of Live Wildlife License from the Nevada Department of Wildlife.

## 5. Public Comment

As of September 22, 2020, Staff has received no comments from the public.

## 6. Power of the Board and Planning Commission

At the conclusion of the hearing, the Planning Commission must take such action thereon as it deems warranted under the circumstances and announce and record its action by formal resolution, and such resolution must recite the findings of the Planning Commission upon which it bases its decision. The decision of the Planning Commission in the matter of granting the Approval is advisory only to the Board of County Commissioners and that governing body must consider the report and recommendation and must make such a decision thereon as it deems warranted.

## 7. Proposed Motions

This Section contains two motions from which to choose. The motion for approval is recommended by Staff in accordance with the findings under Section 3.A of this report. Those findings should be made part of that motion. A motion for denial may be made and that motion should cite one or more of the findings shown in Section 3.B. Other findings of fact determined appropriate by the Planning Commission should be made part of either motion.

### A. Recommended Motion (motion for approval)

In accordance with the recommendation by staff, the Findings under section 3.A of the Staff Report, and in compliance with all Conditions of Approval, I [*Planning Commissioner*], hereby recommend approval to operate a retail establishment and exhibit within an existing building that includes live birds of prey at 80 South C Street, Virginia City, Storey County, Nevada, Assessor's Parcel Number (APN) 001-083-02. The birds will not reside at the site, but will be transported daily by the applicant. No outside display is proposed.

### B. Alternative Motion (motion for denial)

In accordance with the Findings under section 3.B of this report and other Findings against the recommendation for approval with conditions by Staff, I [*Planning Commissioner*],

hereby recommend denial of the applicant's request to operate a retail establishment and exhibit within an existing building that includes live birds of prey at 80 South C Street, Virginia City, Storey County, Nevada, Assessor's Parcel Number (APN) 001-083-02. The birds will not reside at the site, but will be transported daily by the applicant. No outside display is proposed.

**APPENDIX 1**

**Nevada Department of Wildlife**

**LICENSE DOCUMENT**

**Nevada Department of Wildlife**

**Client ID: 5973226**

RAPTORS LIVE LLC, Mark Moglich
[redacted]

**HIP #**

Eyes:
Hair:

84 — Reno Office 08/26/2020 11:30 AM PDT

| License | Issued |
|---|---|
| Commercial Possession of Live Wildlife License<br>Valid from 08/26/2020 through 06/30/2021 | 08/26/2020 |

I, the holder of this license or permit, hereby state that I am entitled to this license or permit under the laws of the State of Nevada and that no false statement has been made by me to obtain this license or permit.

RAPTORS LIVE LLC, Mark Moglich
[redacted]

# INSTRUCTIONS

## LICENSE – NONCOMMERCIAL POSSESSION OF LIVE WILDLIFE
## Fee $15 (22.73)
## LICENSE – COMMERCIAL POSSESSION OF LIVE WILDLIFE
## Fee $500 (22.76)

**LEGAL AUTHORITY:** **NRS 501.097, 501.379, 501.381, 503.597, 503.610, 504.245, and 504.295 NAC 503.108, 503.110, 503.140, 503.560, 503.565, 503.575, and 504.450 – 504.488 inclusive**

**"Wildlife" DEFINED:** "Wildlife" means any wild mammal, wild bird, fish, reptile, amphibian, mollusk, or crustacean found naturally in a wild state, whether indigenous to Nevada or not and whether raised in captivity or not.

**LICENSE REQUIREMENTS:** A license is required to possess any live wildlife unless specifically provided otherwise in Commission regulation. You must obtain the license before you possess the wildlife. A license is not transferable. NOTE: If the wildlife that you wish to possess must be imported into the state it may be necessary for you to first complete and submit a Wildlife Importation Investigation.

**LICENSE EXCEPTIONS:** A possession license is not required for species listed in NAC 503.140. These species are referred to as EXEMPT animals. In addition, under certain specific circumstances, a license is not required to possess certain upland game birds, game fish, and unprotected reptiles and amphibians as described or authorized in NAC's 504.459, 504.4595, and 504.461 respectively. Further, a person who holds an exhibitor's license issued by the Animal and Plant Health inspection Service of the U.S. Dept. of Agriculture may import and exhibit in this state wildlife listed in the USDA license, for not more than 90 days, without obtaining any license or permit issued by the Department for the possession, transportation, importation, or exportation of that wildlife.

**WHERE TO OBTAIN APPLICATION:** Applications for noncommercial and commercial licenses may be obtained from any office of the Nevada Department of Wildlife or on the website at www.ndow.org under the License Office section.

**PROCESSING TIME:** Allow up to thirty (30) days.

**DENIAL OF APPLICATION:** Whenever an application is denied, the Department shall notify the applicant in writing of the reason for the denial.

## GENERAL RESTRICTIONS, CONDITIONS, AND REQUIREMENTS

**SALE OF WILDLIFE:** It is unlawful to sell, barter, or trade wildlife unless specifically authorized in statute or by a regulation of the Commission. Wildlife possessed under the authority of a noncommercial license shall not be sold, bartered or traded, nor maintained for public display or as a part of or adjunct to any commercial establishment.

**ACQUIRING LIVE WILDLIFE:** Wildlife may only be obtained from a licensed breeder or dealer in that wildlife; collections lawfully made in another state or country (if intended for a commercial license the state or country of origin must allow commercialization of the species); or from the Department. Live wildlife shall not be captured from this state and confined unless specifically authorized by Commission regulation.

**RECORD KEEPING:** If you are issued a license, you will be required to maintain accurate records regarding the transfer or disposal of any wildlife. The Department will provide you with the necessary form when a license is issued.

**DISEASE REPORTING:** A person who has reason to believe that any captive wildlife has been exposed to a dangerous or communicable disease shall immediately give notice to the Department of Wildlife and the Department of Agriculture of the Department of Business and Industry.

**IMPORT, EXPORT, TRANSPORT:** See Pertinent Statutes and Regulations (below) – NAC 504.464, 504.466, 504.471.

**INSPECTIONS:** A licensee shall allow, at reasonable times, any person authorized to enforce wildlife regulations, free and unrestricted access for the inspection of wildlife and holding facilities.

**LICENSE RENEWAL:** A commercial or noncommercial license expires on June 30th of each year. If an application for a new license is not submitted to the Department on or before that date, live wildlife possessed pursuant to the expired license shall be deemed to be possessed unlawfully and may be seized by the Department. If an application for a new license, with no changes in the current license, is submitted to the Department on or before June 30, the current license remains in effect while the application is being reviewed by the Department.

**LICENSE SUSPENSIONS/REVOCATIONS:** A license may be suspended or revoked by the Department for a violation of any term, condition or restriction of the license OR if it is found that the possession of any wildlife under the authority of the license is detrimental to any of the wildlife or the habitat of wildlife in this state. The licensee would be advised of any appeal process.

**COMPLIANCE WITH OTHER LAWS:** A license does not authorize the taking, possession, transportation, importation, exportation or disposal of any wildlife in violation of any applicable federal or state law, any county or city ordinance, or any regulation adopted pursuant thereto.

**SPECIAL EXCEPTIONS TO THE LICENSE REQUIREMENT:** See Pertinent Statutes and Regulations (below) – NAC 504.459, 504.4595, and 504.461.

## PERTINENT STATUTES AND REGULATIONS

**NRS 504.245 Authority and immunity of Department; duty and liability of owner or possessor of wildlife.**

1. Any species of wildlife, including alternative livestock, that:
   (a) Is released from confinement without the prior written authorization of the Department; or
   (b) Escapes from the possessor's control,

may be captured, seized or destroyed by the Department if the Department determines that such actions are necessary to protect wildlife and the habitat of wildlife in this State.

2. The owner or possessor of such wildlife:
   (a) Shall report its escape immediately after receiving knowledge of the escape; and
   (b) Is liable for the costs incurred by the Department to capture, maintain and dispose of the wildlife and for any damage caused by the wildlife.
3. The Department is not liable for any damage to wildlife, or caused by wildlife, in carrying out the provisions of this section.

**NAC 503.110 Restrictions on importation, transportation and possession of certain species. (NRS 501.105, 501.181, 503.597)**

1. Except as otherwise provided in this section and NAC 504.486, the importation, transportation or possession of the following species of live wildlife or hybrids thereof, including viable embryos or gametes, is prohibited:

(a) Fish:

| Common Name | Scientific Classification |
|---|---|
| (1) Lampreys | All species in the family Petromyzontidae |
| (2) Freshwater stingray | All species in the family Potamotrygonidae |
| (3) Freshwater shark | All species in the genus *Carcharhinus* |
| (4) Bowfin | Amia calva |
| (5) Gars | All species in the family Lepisosteidae |

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|---|---|
| (6) Herring and shad, except threadfin shad. | All species in the family Clupeidae, except *Dorosoma petenense* |
| (7) European Whitefish..... | All species in the genus *Leuciscus* |
| (8) Mexican banded tetra..... | Astyanax mexicanus |
| (9) Piranhas..... | All species in the genera *Serrasalmus*, *Serrasalmo, Pygocentrus*, *Teddyella, Rooseveltiella* and *Pygopristis* |
| (10) South American Parasitic Catfish | All species in the families Cetopsidae and Trichomycteridae |
| (11) White perch..... | Morone americana |
| (12) Freshwater drum..... | Aplodinotus grunniens |
| (13) Grass carp, except certified triploids as authorized by a special permit.... | Ctenopharyngodon idella |
| (14) Pike top minnow..... | Belonesox belizanus |
| (15) Snakehead..... | All species in the genera *Ophicephalus* and *Channa* |
| (16) Walking catfish..... | All species in the genera *Clarias, Heteropneustes* and *Dinotopterus* |
| (17) Tiger fish..... | Hoplias malabaricus |
| (18) Sticklebacks..... | All species in the genera *Apeltes, Eucalia, Gasterosteus* and *Pungitius* |
| (19) Tilapia..... | All species in the genera *Tilapia* and *Sarotherodon* |
| (20) Nile perch..... | All species in the genera *Lates* and *Luciolates* |
| (21) Goldeye..... | All species in the genus *Hiodon* |
| (22) Carp: | |
| (I) Bighead..... | Hypophthalmichthys nobilis |
| (II) Black (snail)..... | Mylopharyngodon piceus |
| (III) Crucian..... | Carassius carassius |
| (IV) Indian..... | Catla catla, Cirrhina mrigala and Labeo rohita |
| (V) Silver..... | Hypophthalmichthys molitrix |
| (23) Rudd..... | Scardinius erythrophthalmus |
| (24) Northern Pike..... | Esox lucius |

(b) Reptiles:

| **Common Name** | **Scientific Classification** |
|---|---|
| (1) Alligators and caimans..... | All species in the family Alligatoridae |
| (2) Crocodiles..... | All species in the family Crocodylidae |
| (3) Gharial (gavial)..... | All species in the family Gavialidae |
| (4) Bird snake..... | All species in the genus *Thelotornis* |
| (5) Boomslang..... | *Dispholidus typus* |
| (6) Keelbacks..... | All species in the genus *Rhabdophis* |
| (7) Burrowing Asps..... | All species in the family Atractaspidae |
| (8) Coral snakes, cobras, kraits, mambas and Australian elapids..... | All species in the family Elapidae, except species in the subfamily Hydrophiinae |
| (9) Pit vipers and true vipers, except species indigenous to this state..... | All species in the family Viperidae, except species indigenous to this State |
| (10) Snapping Turtles..... | All species in the family Chelydridae |

(c) Amphibians:

| **Common Name** | **Scientific Classification** |
|---|---|
| (1) Clawed frogs..... | All species in the genus *Xenopus* |
| (2) Giant or marine toads..... | *Bufo horribilis, Bufo marinus* and *Bufo paracnemis* |

(d) Mammals:

| **Common Name** | **Scientific Classification** |
|---|---|
| (1) Wild Dogs or Dhole..... | *Cuon alpinus* |
| (2) Raccoon Dog..... | *Nyctereutes procyonoides* |
| (3) Mongooses and Meerkats..... | All species in the genera *Atilax, Cynictis, Helogale, Mungos, Suricate, Ichneumia* and *Herpestes* |
| (4) Wild European Rabbit..... | *Oryctolagus cuniculus* |
| (5) Multimammate Rat or Mouse..... | All species in the genus *Mastomys* (=*Praomys*) |
| (6) Bats..... | All species in the order Chiroptera |
| (7) Nutria..... | *Myocastor coypus* |
| (8) Coyote..... | *Canis latrans* |

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|---|---|
| (9) Foxes | All species in the genera *Vulpes, Fennecus, Urocyon, Alopex, Lycalopex* and *Pseudalopex* |
| (10) Raccoon | *Procyon lotor* |
| (11) Skunk | All species in the genera *Spilogale, Mephitis* and *Conepatus* |
| (12) Wild pigs and hogs | All species in the family Suidae, except domestic breeds of *Sus scrofa* |
| (13) Axis deer | *Cervus* (*Axis*) *axis, C. porcinus, C. kuhli* and *C. calamianensis* |
| (14) Red deer, elk and wapiti | All subspecies of *Cervus elaphus*, except those members of C. elaphus nelsoni which are alternative livestock, as that term is defined in NRS 501.003 |
| (15) Rusa deer | *Cervus timorensis* |
| (16) Sambar deer | *Cervus unicolor* |
| (17) Sika deer | *Cervus nippon* |
| (18) Roe deer | *Capreolus capreolus* and *C. pygargus* |
| (19) White-tailed deer | *Odocoileus virginianus* |
| (20) Moose | *Alces alces* |
| (21) Reedbucks | All species in the genus *Redunca* |
| (22) Oryx and Gemsbok | All species in the genus *Oryx* |
| (23) Addax | *Addax nasomaculatus* |
| (24) Blesbok, Topi and Bontebok | All species in the genus *Damaliscus* |
| (25) Hartebeests | All species in the genera *Alcelaphus* and *Sigmoceros* |
| (26) Wildebeest and Gnus | All species in the genus *Connochaetes* |
| (27) Chamois | *Rupicapra rupicapra* and *R. pyrenaica* |
| (28) Tahr | All species in the genus *Hemitragus* |
| (29) Ibex, Wild Goats, Tur and Markhor. | All species in the genus *Capra*, except domestic goats, *Capra hircus* |
| (30) Barbary (Aoudad) Sheep | *Ammotragus lervia* |
| (31) Mouflon sheep, Urial, Bighorn and Argali | All species in the genus *Ovis,* except domestic sheep, *Ovis aries* |

(e) Birds:

| **Common Name** | **Scientific Classification** |
|---|---|
| (1) Pink Starling or Rosy Pastor | *Sturnus roseus* |
| (2) Red-billed Dioch | *Quelea quelea* |
| (3) Red-whiskered Bulbul | *Pycnonotus jocosus* |

(f) Crustaceans:

| **Common Name** | **Scientific Classification** |
|---|---|
| (1) Asiatic mitten crab | *Eriocheir sinensis* |
| (2) Crayfish | All species in the families Parastacidae, Cambaridae and Astacidae, except *Procambarus clarkii*, *Orconectes causeyi* and indigenous species of the genus *Pacifastacus* |

(g) Mollusks:

| **Common Name** | **Scientific Classification** |
|---|---|
| (1) African giant snail | *Achatina fulica* |
| (2) Zebra and quagga mussel | All species in the genus *Dreissena* |
| (3) New Zealand mud snail | *Potamopyrgus antipodarum, P. jenkinsi* |

2. The headquarters of the Department and each regional office of the Department will maintain a physical description and picture of each species listed in this section when reasonably available.

3. The Department may issue a scientific permit for the collection or possession of wildlife or a commercial license for the possession of live wildlife, whichever is applicable, for the importation, transportation or possession of a species listed in this section only to:

(a) A zoo or aquarium which is an accredited institutional member of the Zoological Association of America, the Association of Zoos and Aquariums or their successors.

(b) A person who displays, exhibits or uses the species for entertainment or commercial photography, including, without limitation, motion pictures, still photography or television, if the species:

(1) Is accompanied by evidence of lawful possession;

(2) Is not in this state for more than 90 days; and

(3) Is maintained under complete control and prohibited from coming into contact with members of the general public.

If the person is displaying, exhibiting or using mammals for commercial purposes other than for food or fiber, he must possess the appropriate license issued by the United States Department of Agriculture.

(c) A college, university or governmental agency, for scientific or public health research.

(d) Any other scientific institution, as determined by the Department, for research or medical necessity.

(e) Any person engaged in commercial aquaculture, upon application and proof to the Department that the activity will not be detrimental to aquatic life, other wildlife or recreational uses. As a condition of the issuance to such a person of a commercial license for the possession of a species listed in this section, a bond may be required to provide for the removal of any species to which the licenses applies that may escape or be released from captivity for any reason. The amount of the bond will be determined by the Department after considering the degree of potential hazard to wildlife.

(f) A tax-exempt nonprofit organization that exhibits wildlife solely for educational or scientific purposes.

4. An interstate shipment of a species listed in this section may be transported through this State, without a permit or license issued by the Department, if:

(a) The shipper or transporter has evidence of lawful possession of the species issued by the state or country where the species originated;

(b) Mammals, birds or fish are accompanied by a health certificate issued by the state or country where the species originated that indicates the destination, origin and proof of ownership of the species being transported;

(c) The species is in this State for less than 48 hours; and

(d) The species is not unloaded or otherwise released while being transported through this State.

5. This section does not apply to the Department when it is conducting authorized introductions or transplantations of a native species of big game mammal listed in this section.

**NAC 504.459 Possession of certain species of birds on private property without license; restrictions on disposition; documentation on transportation.**

1. A person does not need to obtain a license for the possession of wildlife to possess, propagate, breed or otherwise maintain the following species of live wildlife to be held in captivity on private property:

(a) California quail;

(b) Gambel's quail;

(c) Scaled quail;

(d) Mountain quail;

(e) Chukar;

(f) Hungarian (gray) partridge;

(g) Ring-necked and white-winged pheasant; or

(h) Bobwhite quail.

2. Species of birds, and any parts and progeny thereof, which are possessed in accordance with this section must not be:

(a) Sold, bartered or traded;

(b) Released without the written authorization of the Department;

(c) Hunted, except under the authority of a permit to train hunting dogs or raptors;

(d) Captured or removed from the wild;

(e) Imported into this State without an importation permit issued by the Department, unless:

(1) The bird, or part or progeny thereof, is from a hatchery, dealer or independent flock that is an approved participant of the National Poultry Improvement Plan; and

(2) The importation of the bird, or part or progeny thereof, is in compliance with the requirements established by the state department of agriculture pursuant to NAC 571.070; or

(f) Placed on public display or maintained as a part of or adjunct to a commercial establishment.

3. A bird authorized to be possessed pursuant to this section may not be transported, alive or dead, from the private property where the bird is being held, unless the bird is accompanied by an itemized invoice which lists:

(a) The species and the number of each bird to be transported;

(b) The date on which the bird to be transported was acquired by the person possessing the bird pursuant to this section;

(c) The name and address of the person transporting the bird; and

(d) The name and address of the person who owns the property from where the wildlife is being transported.

**NAC 504.4595 Possession and propagation of certain species of fish on private property; restrictions on disposition; documentation on transportation; conditions for taking of fish.**

1. A person does not need to obtain a license to possess, propagate, breed or otherwise maintain the following species of privately planted live fish, including hybrids thereof, in a pond or lake which is not connected to a state water system by means of a natural water course and which is located wholly on private property:

(a) Rainbow trout;
(b) Brown trout;
(c) Cutthroat trout;
(d) Brook trout;
(e) Largemouth bass;
(f) Smallmouth bass;
(g) Bluegill sunfish;
(h) Redear sunfish;
(i) Channel catfish;
(j) Black bullhead; or
(k) Crappie.

2. Species of fish, and any parts and progeny thereof, authorized to be held pursuant to subsection 1 must not be:

(a) Sold, bartered or traded;
(b) Released into the waters of this state which are not located on the same private property, unless the other water is located wholly on private property and is not part of or connected to the state water system by means of a natural water course;
(c) Captured or removed from the wild to stock the water on the private property;
(d) Imported into this state, except upon the written authorization of the Department; or
(e) Placed on public display or maintained as a part or as an adjunct to a commercial establishment.

3. A person who possesses fish in accordance with this section may not charge another person a fee for the privilege of fishing for or otherwise capturing those fish.

4. A species of fish authorized to be possessed pursuant to this section may not be transported, alive or dead, from the private property where the fish are being held, unless the fish are accompanied by an itemized statement which lists:

(a) The species and number of each fish to be transported;
(b) The date on which the fish to be transported were acquired by the person possessing the fish pursuant to this section;
(c) The name and address of the person transporting the fish and the name and address of the person who will receive the fish, if different from the transporter;
(d) The name and address of the person who owns or controls the property from which the fish are being transported; and
(e) The signature of the person who owns or controls the property where the fish were being held, or of his designee.

5. The owner, or if applicable, lessee, of a private pond or lake which is stocked with fish in accordance with this section, his family and guests may take fish from that pond or lake:

(a) At any time;
(b) In any manner which is not deleterious or dangerous to the residents, the wildlife other than the fish to be taken, and the habitat of the wildlife in this state; and
(c) Without regard for limits and required fishing licenses, permits or stamps.

For the purposes of this subsection, manners of taking fish which are deleterious or dangerous to the residents, the wildlife other than the fish to be taken, and the habitat of the wildlife include, but are not limited to, the use of poisons and the use of explosives.

**NAC 504.461 Unprotected reptiles and amphibians: Possession, transportation and breeding; disposition of progeny; restrictions; applicability of other laws.**

1. A natural person may without a license or permit issued by the Department capture, possess, transport and breed reptiles and amphibians which are classified by the Department as unprotected if:

(a) The capture, possession, transportation and breeding is for strictly personal and noncommercial purposes; and

(b) The number of reptiles and amphibians possessed by the person does not exceed the possession limits established by the Commission for each such reptile and amphibian.

2. If, while in the possession of a natural person pursuant to this section, an unprotected reptile or amphibian produces progeny and the number of the progeny exceeds the possession limits established by the commission for that reptile or amphibian, the natural person may hold the excess number of progeny in captivity for not more than 45 days after the date on which the progeny hatched or was born. On or before the expiration of the 45-day period, such progeny must be given as a gift to another natural person or a scientific or educational institution located in this State, or disposed of as directed by the Department. Such progeny must not be released into the wild.

3. Except as otherwise provided in chapters 501 to 504, inclusive, of NAC, unprotected reptiles and amphibians, and any parts and progeny thereof, which are possessed in accordance with this section may not be:

(a) Sold, bartered or traded;

(b) Released into the wild if the reptile or amphibian has been removed from the site where it was captured; or

(c) Maintained for public display or as a part of or adjunct to any commercial establishment.

4. This section does not authorize the possession, transportation or exportation of unprotected reptiles or amphibians in violation of any applicable federal, state, county or city law, regulation or ordinance.

**NAC 504.464 Importing of live wildlife into State:** General conditions.

1. Except as otherwise provided in subsection 2 and NAC 504.466, a person who holds a commercial or noncommercial license may import a shipment of live wildlife into this State if he complies with the following requirements:

(a) His license must authorize the possession of the species to be imported;

(b) He must first obtain an importation permit from the Department unless his commercial or noncommercial license specifically authorizes the importation of the species; and

(c) If the shipment is comprised of birds, fish or mammals, it must be accompanied by a certificate of health issued by a fish pathologist approved by the Department or a veterinarian who is:

(1) Licensed to practice in the state in which the shipment originated; and

(2) Accredited by the Federal Government.

2. A person who holds a commercial or noncommercial license may import live fish into this State if:

(a) His license authorizes the possession of the species to be imported; and

(b) He complies with the provisions of NRS 503.597 and NAC 503.560.

**NAC 504.466 Conditions for importing of ungulates into State.**

1. A person who holds a commercial or noncommercial license must not import ungulates into this State unless:

(a) His license authorizes the possession of the species to be imported;

(b) He first obtains:

(1) An importation permit from the Department; and

(2) An importation permit from the State Department of Agriculture; and

(c) He submits to the Department of Wildlife and the State Department of Agriculture a health certificate and certificate of examination of the ungulates issued by a licensed veterinarian who is accredited by the Federal Government. The certificate of examination must include:

(1) A statement that all animals in the shipment tested negative for tuberculosis, brucellosis and such other diseases as prescribed by the Department of Wildlife and the State Department of Agriculture; and

(2) The following statement signed by the veterinarian in the state, province or country where the ungulates originated:

To the best of my knowledge, animals listed in this certificate are not infected with paratuberculosis (Johnes Disease) and have not been exposed to animals infected with paratuberculosis. To the best of my knowledge, the premises of origin have not been the site of a significant outbreak of disease in the

previous 24 months that was not contained and extirpated using recognized standards for the control of diseases.

2. Additional examinations of the animals may be required by the Department of Wildlife or the State Department of Agriculture if:
   (a) Written notice is given to the licensee; and
   (b) There is reason to believe that other diseases, parasites or health risks are present.

3. Imported ungulates must be isolated from other animals, for at least 30 consecutive days after entry into the State, at the quarantine facility of the importing licensee which is approved pursuant to NAC 504.480.

**NAC 504.471 Restrictions on shipment, transportation and exportation of wildlife; exceptions.** (NRS 502.010) A person shall not ship, transport or export wildlife from the State of Nevada unless:

1. He first obtains an exportation permit from the Department;
2. He possesses a valid license or permit issued by the Department which specifically authorizes the export of the species listed on the license or permit;
3. He lawfully obtains the wildlife from a person authorized to possess and export live wildlife without an export permit and the shipment is accompanied by a receipt which includes:
   (a) The species of wildlife and the number of each species being shipped or transported;
   (b) The date that the wildlife is being shipped or transported; and
   (c) The name, address and signature of the person from whom the wildlife was obtained;
4. He ships or transports species possessed pursuant to NAC 504.459, 504.4595 or 504.4597; or
5. The wildlife to be transported is an unprotected reptile or amphibian possessed pursuant to NAC 504.461.

**NAC 504.472 Marking and tagging of captive wildlife.**

1. A person who holds a commercial or noncommercial license for:
   (a) Ungulates shall cause any ungulates he possesses under the authority of that license to be:
      (1) Marked with an official ear tag approved by the United States Department of Agriculture;
      (2) Marked with an ear tag supplied or approved by the Department; or
      (3) Otherwise permanently marked in a manner acceptable to the Department.
   (b) Bobcats, mountain lions or black bears shall cause any of those species he possesses under the authority of that license to be:
      (1) Tattooed in the left ear with a number assigned by the Department; or
      (2) Otherwise permanently marked in a manner acceptable to the Department.
   (c) Ungulates, bobcats, mountain lions or black bears shall cause any of the progeny of those species he possesses under the authority of that license to be tagged or marked:
      (1) By December 31 of its year of birth; or
      (2) Before leaving the facility, whichever is earlier.
2. Any identification attached to or implanted in a captive ungulate, bobcat, mountain lion or black bear must not be removed or transferred to any other animal.

**NAC 504.474 Maintenance of handling facilities.** A person who holds a commercial or noncommercial license for ungulates, bobcats, mountain lions or black bears shall maintain on the premises where the species is most often kept holding and handling facilities that enable the handling, marking and individual identification of the species he possesses under the authority of that license.

**NAC 504.476 Cages or open-top enclosures for bobcats, mountain lions and black bears.**

1. Any person who, on or after February 28, 1994, applies for and is granted an initial commercial or noncommercial license for bobcats, mountain lions or black bears shall maintain, on the premises where the species is most often kept, a cage or open-top enclosure for the species that meets or exceeds the minimum requirements set forth in this section.
2. Any cage for bobcats, mountain lions or black bears must have:
   (a) Sides constructed of:
      (1) Woven wire or chain link which is no smaller than 11 gauge for bobcats and 9 gauge for mountain lions or black bears; or
      (2) A solid material that cannot be destroyed by the species contained therein;
   (b) A top constructed of woven wire or chain link which is no smaller than 11 gauge;
   (c) A floor:

(1) Constructed of cement or concrete at least 3 inches thick into which metal fence posts are permanently secured; or

(2) Made of dirt with buried chain link or a similar material that will preclude the species from digging through the floor and escaping; and

(d) Have double doors constructed in such a manner that the exterior door must be closed before the interior door can be opened. Each door must be secured by a lock.

3. Any open-top enclosure for bobcats, mountain lions or black bears must comply with the following minimum requirements:

(a) The enclosure must have a perimeter fence which is:

(1) At least 8 feet high for its entire length;

(2) Constructed of:

(I) Woven wire or chain link which is no smaller than 11 gauge for bobcats and 9 gauge for mountain lions or black bears; or

(II) A solid material that cannot be destroyed by the species contained therein; and

(3) Supported by posts or stays located at intervals of not more than 10 feet.

(b) A double overhang (Y-cantilever) of barbed or electrified wire, or smooth wire which is no smaller than 9 gauge, must be installed at the top of the perimeter fence with one cantilever tilted in at a 45-degree angle and the other tilted out at a 45-degree angle. The cantilevers must be not less than 12 inches in length.

(c) For:

(1) Bobcats and mountain lions, the bottom of the perimeter fence must be secured to the ground in such a manner as to prevent the ingress and egress of the species; and

(2) Black bears, buried mesh wire which is no smaller than 11 gauge must extend laterally 3 feet to the inside of the enclosure for the length of the perimeter fence in such a manner as to prevent the species from digging under the fence and escaping.

(d) Any trees or obstacles that would allow bobcats, mountain lions or black bears to exit or enter the enclosure must be removed.

(e) Any gate in the perimeter fence must be:

(1) Designed to close by itself; and

(2) Equipped with two locking devices.

4. Any cage or open-top enclosure for bobcats, mountain lions or black bears must be maintained in a condition that prevents the ingress and egress of the species. If any bobcats, mountain lions or black bears pass through, under or over the cage or open-top enclosure, the licensee shall immediately repair or alter the cage or open-top enclosure to prevent the continued passage.

**NAC 504.478 Ungulates: Enclosures.**

1. Any person:

(a) Who, on or after February 28, 1994, applies for and is granted an initial commercial or noncommercial license for ungulates; or

(b) Who:

(1) On February 28, 1994, holds any permit or license issued by the Department which authorizes the possession of live ungulates; and

(2) Adds to or rebuilds any existing enclosures for ungulates on the premises where the ungulates are most often kept, except for the performance of necessary repairs or maintenance,

shall maintain, on the premises where the ungulates are most often kept, an enclosure for those ungulates that meets or exceeds the minimum requirements set forth in this section.

2. The enclosure must have a conventional perimeter fence which is at least 8 feet high for its entire length. The lower 6 feet of the fence must be constructed of:

(a) Woven wire or chain link which is no smaller than 12 1/2 gauge; or

(b) High-tensile woven wire which is no smaller than 14 1/2 gauge,

of a mesh that is no larger than 6 inches by 8 inches. If the roll of fencing material is less than 6 feet in height it must be overlapped to attain 6 feet, and securely fastened at every other vertical row or woven together with cable, in such a manner as to eliminate gaps. Any supplemental wire used on the upper 2 feet of the fence to attain the height of 8 feet must be constructed of smooth, barbed or woven wire which is no smaller than 12 1/2 gauge with strands spaced not more than 6 inches apart.

3. The posts used in a perimeter fence must:

(a) Extend at least 8 feet above and 2 1/2 feet below the surface of the ground.
(b) Be spaced not more than 24 feet apart with stays or supports at intervals between the posts of not more than 8 feet, except that no stays or supports are required for properly stretched high-tensile fences.
(c) For corner posts, be:
(1) Constructed of pressure-treated wood which is not less than 5 inches in diameter; and
(2) Braced with wood or a suitable metal properly set in concrete.
(d) For line posts, be constructed of:
(1) Pressure-treated wood which is not less than 4 inches in diameter; or
(2) Metal "T" posts which weigh not less than 1 1/4 pounds per foot.

4. Any gate in a perimeter fence must be:
(a) Designed to close by itself; and
(b) Equipped with two locking devices.

5. There must be no gate in any portion of a perimeter fence shared in common with another enclosure for the same species which is maintained by another licensee.

6. Materials for an electrical fence may be used on a perimeter fence only as a supplement to the materials required by this section.

7. If a perimeter fence is on uneven terrain, any hollows must be filled with suitable materials such as rock, hard-packed soil or logs.

8. A perimeter fence must be maintained in a condition that prevents the ingress and egress of ungulates. If any ungulates pass through, under or over the perimeter fence, the licensee shall immediately repair or alter the fence to prevent the continued passage.

**NAC 504.480 Ungulates: Quarantine facility; report of death; postmortem examination.** A person who holds a commercial or noncommercial license for ungulates shall:

1. Maintain, on the premises where the ungulates are most often kept, a quarantine facility which is approved by both the Department of Wildlife and the State Department of Agriculture.

2. Allow agents of the Department of Wildlife or the State Department of Agriculture to inspect at any time that quarantine facility and any animals contained therein.

3. If a quarantine is imposed, quarantine ungulates in that quarantine facility.

4. Immediately report to the Department of Wildlife the death of any ungulate he possesses under the authority of that license. The Department of Wildlife may require the licensee to submit the ungulate to:
(a) A laboratory approved by the Department of Wildlife; or
(b) A licensed veterinarian who is accredited by the Federal Government,
for a post-mortem examination to determine the cause of death.

## WHERE TO SEND APPLICATION AND FEES

Submit your completed application to the appropriate office below:

**Western Region**
Nevada Department of Wildlife
Special Licenses and Permits
1100 Valley Rd, Reno, NV 89512
Telephone: (775) 688-1500
Counties: Carson City, Churchill, Douglas, Humboldt, Lyon, Mineral, Pershing, Storey, Washoe

**Southern Region**
Nevada Department of Wildlife
3373 Pepper Ln.; Las Vegas, NV 89120
Telephone: (702) 486-5127
Counties: Clark, Esmeralda, Lincoln, Nye

**Eastern Region**
Nevada Department of Wildlife
60 Youth Center Road; Elko, NV 89801
Telephone: (775) 777-2300
Counties: Elko, Eureka, Lander, White Pine

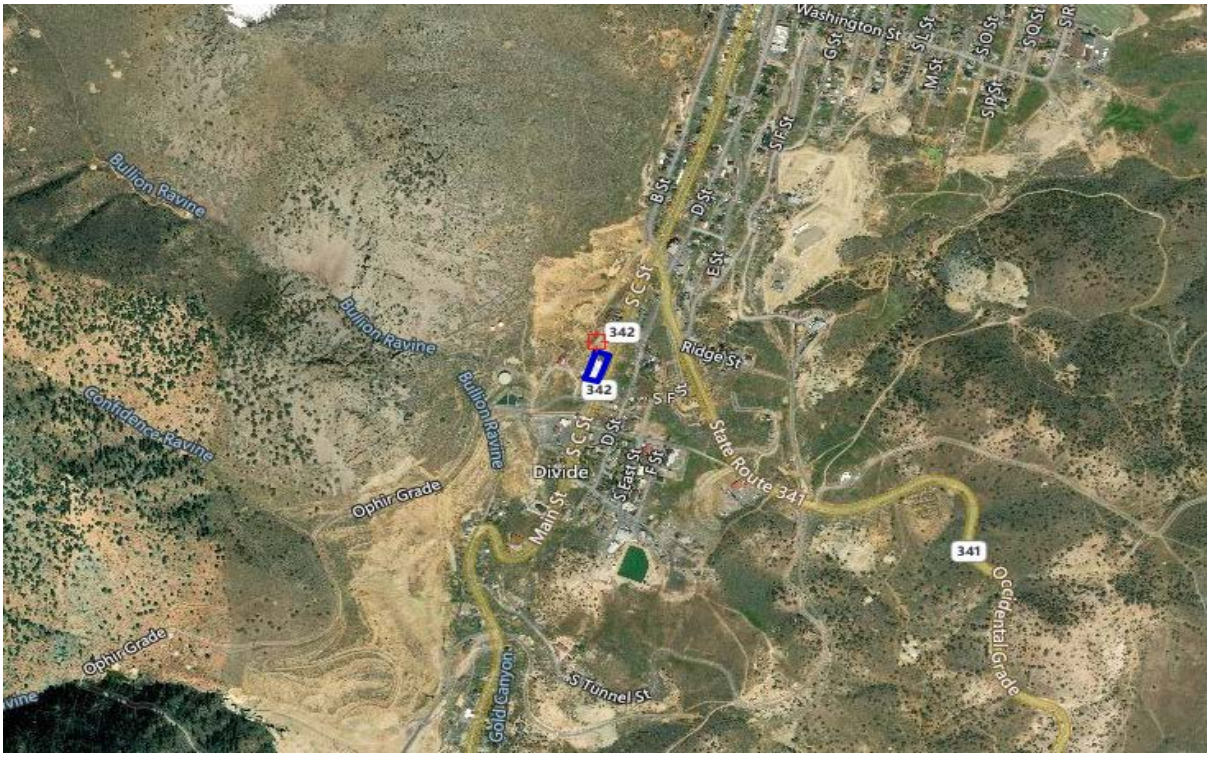
**STOREY COUNTY**
**PLANNING DEPARTMENT**
Storey County Courthouse
26 South B Street, PO Box 176, Virginia City, NV 89440 Phone (775) 847-1144 – Fax (775) 847-0949
planning@storeycounty.org

| | |
|---|---|
| **To:** | Storey County Planning Commission |
| **From:** | Storey County Planning Department |
| **Meeting Date:** | October 1, 2020 |
| **Meeting Location:** | Storey County Courthouse, 26 S. B Street, Virginia City, Storey County, Nevada, via Zoom |
| **Staff Contact:** | Kathy Canfield |
| **File:** | 2020-030 |
| **Applicants:** | Storey County Public Works Department |
| **Property Owner:** | Storey County |
| **Property Location:** | A portion of A Street, approximately 155-feet north of Ophir Grade right-of-way and approximately 190-feet south of Ridge Street right-of-way, Virginia City, Storey County, Nevada |
| **Request:** | The applicant requests to abandon the public access easement associated with a portion of undeveloped A Street right-of-way, located approximately 155-feet north of Ophir Grade right-of-way and approximately 190-feet south of Ridge Street right-of-way. The land associated with the access easement will remain Storey County property, however, the abandonment of the easement will allow for construction of a County-owned building to occur. The area associated with the public access easement abandonment will be consolidated with the Storey County owned parcel. The access easement abandonment is located adjacent to 800 South C Street, Virginia City, Storey County, Nevada and borders Assessor's Parcel Number (APN) 001-042-13. |

**1. Background & Analysis**

**A.** **<u>Site Location & Background</u>.** The proposed abandonment is an undeveloped portion of A Street right-of-way located adjacent to land owned by Storey County in the Divide neighborhood of Virginia City. Storey County proposes to abandon the public access easement associated with the right-of-way but retain ownership of the underlying land. The area of easement abandonment will be consolidated with the adjacent parcel of land owned by Storey County. The land in question is undeveloped as an access and has been used as

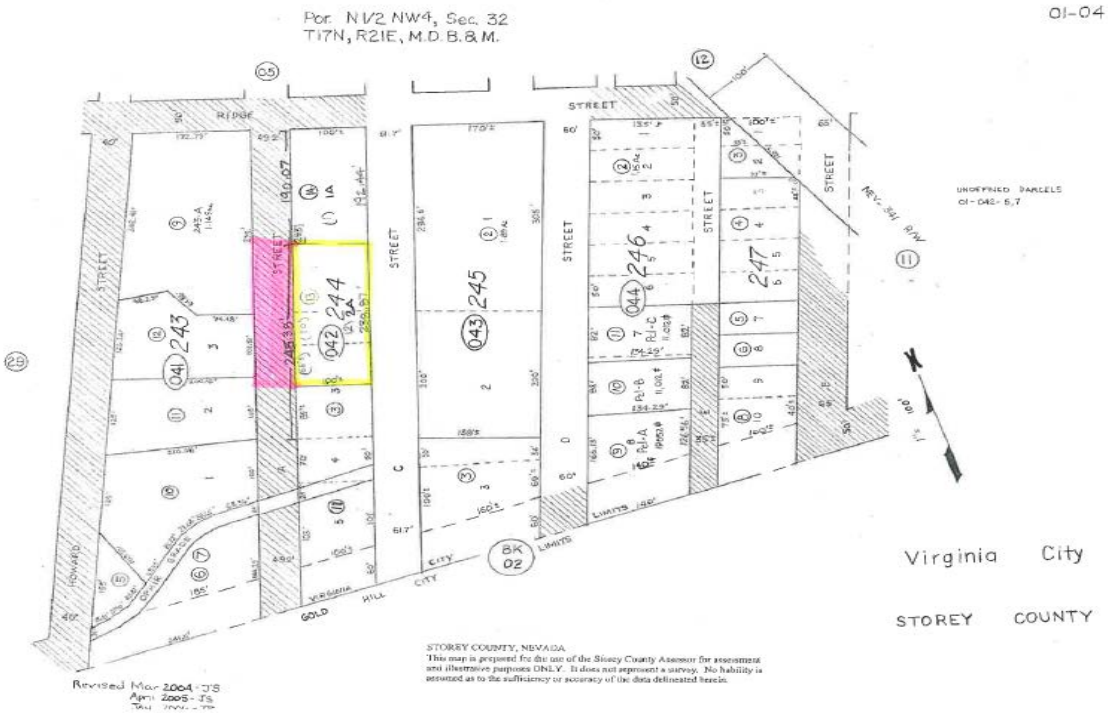
unofficial parking associated with the businesses and apartments nearby. The northern end borders on a mining pit and the southern end is excavated into a hillside. Because of these topographic challenges, it is unlikely an accessway would be constructed in this location. Vehicle access to the adjacent parcels to the west is not feasible without significant engineering. The parcels to the west have other routes for access.




*Vicinity Map*

*Location Map*

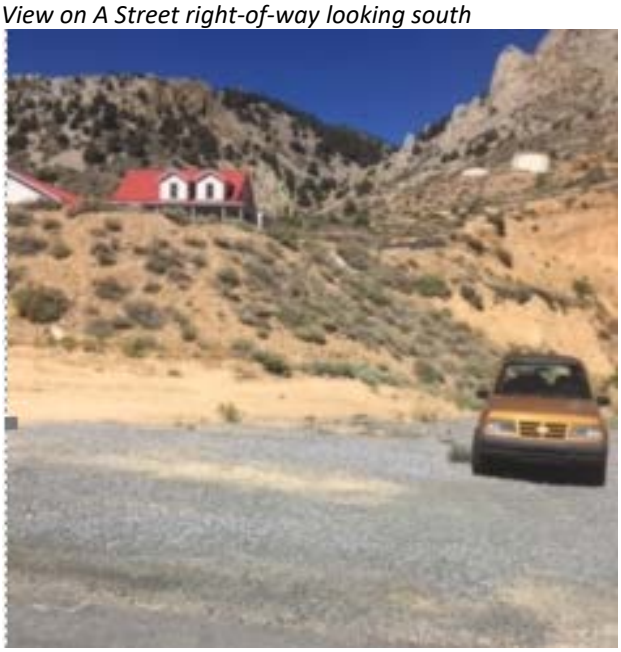
*Area in pink to have access easement abandoned*




*Assessor's Parcel Map, area in pink to have access easement abandoned, yellow is County parcel*

*View on A Street right-of-way looking north*

*View on A Street right-of-way looking south*



*View looking directly west, pit starts to the right behind the car*

**B.** **Proposed Project**. Storey County requests to abandon an access easement associated with a portion of undeveloped A Street. The underlying land is proposed to remain Storey County property. The area of abandoned easement will be consolidated with the adjacent parcel owned by Storey County. The abandonment is proposed to allow for a rear addition to the existing building. Without the abandonment of the easement, the building addition would cross the property line and be located within a portion of the right-of-way.

**C.** **Abandonments**. Nevada Revised Statues (NRS) 278.480 defines requirements for abandonment of a street or easement. Storey County has not adopted its own process and therefore follows the NRS process.

Storey County has followed a policy to not encourage abandonments of roadways within the Virginia City area. In the past, some roadways were abandoned and impacts to circulation for the town have been identified as the town has grown. Staff acknowledges the importance of keeping right-of-way for the public and public circulation patterns. In this specific case, it does not appear that the overall circulation patterns or public needs will be negatively impacted by the proposed easement abandonment of a portion of undeveloped A Street. This portion of A Street has not been developed and because of the topography with the adjacent hillside and mining pit, is unlikely to become a public access way.

The County is requesting to abandon the public access easement associated with the land only. The land will still belong to the County and would be used for a public purpose other than access. Storey County legal counsel has researched the land and is of the opinion that this land was a statutory dedication. Based on a recent Nevada court case, if the original dedication was a statutory dedication, then the dedication was a grant of the fee for a public use. If the dedication was a common law dedication, then the abutting owner retained title to the fee subject to a public easement in the land vested in the local government. In the Court's view the federal town site acts which authorized conveyances of public land consisting of town sites, conveyed the fee title to the streets and alleys to the local government and not to the abutting landowners. Based on this logic, the entirety of the land associated with the easement abandonment will be retained by the County and not divided with adjacent property owners. The land will continue to be utilized for a public purpose.

**D.** **Noticing.** NRS 278.480 requires additional noticing of the public beyond the typical noticing procedures of Storey County per NRS 278. In addition to noticing properties within 300-feet of the project, NRS requires the project to be advertised in the newspaper (Comstock Chronicle, September 18, 2020 edition) and to notify each property owner abutting the proposed abandonment with a notice method that provides confirmation of delivery and does not require the signature of the recipient. In addition, each public utility and video service provider (NV Energy, AT&T, Storey County Public Works, Comstock Cable) serving the affected area was notifitied with a written notice.

**E.** **Adjacent Properties Existing Land Uses.** The property is located within the Divide neighborhood of Virginia City and is zoned CR Commercial Residential. The surrounding properties are also zoned CR. The portion to be abandoned is surrounded by a mix of residential and public service land uses and vacant parcels.

## 2. Use Compatibility and Compliance

**A.** **Compatibility with surrounding uses and zones.** The following table documents land uses, zoning classification and master plan designations for the land at and surrounding the proposed project. There are no evident conflicts between the proposed abandonment and Storey County Title 17 Zoning or the 2016 Master Plan.

| | Land Use | Master Plan | Zoning |
|---|---|---|---|
| Applicant's Land | Vacant, public service | Mixed-Use Commercial-Resource | Commercial Residential |
| Land to the North | Vacant, residential, mining pit | Mixed-Use Commercial-Resource | Commercial Residential |
| Land to the East | Public service, vacant | Mixed-Use Commercial-Resource | Commercial Residential |
| Land to the South | Public service, vacant | Mixed-Use Commercial-Resource | Commercial Residential |
| Land to the West | Residential, vacant | Mixed-Use Commercial-Resource | Commercial Residential |

**B.** **Compliance with the Storey County Code**. Section 17.12.090 discusses Access and Right-of-Ways. This chapter states that "No commercial, industrial, or dwelling construction may be permitted on any parcel or lot not served by a public right-of-way of at least 50 feet in width, with a minimum public traveled way of 24 feet in width. "

The proposed access easement abandonment of a portion of A Street will not impact adjacent parcels. All parcels, whether developed or undeveloped, have other routes of access and this portion of the right-of-way is not used as access by any adjacent parcel. A Street is undeveloped and because of topography, is very unlikely to be developed in the future. The abandoned portion will be consolidated with the adjacent Storey County owned parcel which remains as public property and is accessed from C Street (Highway 342).

**B.** **Compliance with 2016 Storey County Master.**

The proposed abandonment is consistent with the 2016 Storey County Master Plan. The Master Plan does not specifically mention abandonments of roadways or access easements. This proposed access easement abandonment will be consolidated with the adjacent Storey County property and will remain public property. The abandonment will not change the circulation pattern of the town as the area of land is undeveloped as public access and because of topography issues is unlikely to be developed or needed as access.

## 3. Findings of Fact

The Storey County Planning Commission shall cite Findings in a recommended motion for approval, approval with conditions, or denial. The recommended approval, approval with conditions or denial of the requested Abandonment must be based on Findings. The Findings listed in the following subsections are the minimum to be cited. The Planning Commission may include additional Findings in their decision.

**A.** **Motion for Approval.** The following Findings of Fact are the minimum to be cited for a recommendation of approval or approval with conditions. The following Findings are evident with regard to the requested Abandonment when the recommended conditions in

Section 4 are applied. At a minimum, an approval or conditional approval must be based on the following Findings:

(1) This approval is to abandon the public access easement associated with a portion of undeveloped A Street right-of-way, located approximately 155-feet north of Ophir Grade right-of-way and approximately 190-feet south of Ridge Street right-of-way. The land associated with the access easement will remain Storey County property, however, the abandonment of the easement will allow for construction of a County-owned building to occur. The area associated with the public access easement abandonment will be consolidated with the Storey County owned parcel. The right-of-way abandonment is located adjacent to 800 South C Street, Virginia City, Storey County, Nevada and borders Assessor's Parcel Number (APN) 001-042-13.

(2) The Abandonment complies with NRS 278.480 relating to Abandonment of a street or easement.

(3) The Abandonment complies with all Federal, State, and County regulations pertaining to vacation or abandonment of streets or easements, including NRS 278.240.

(4) The Abandonment will not impose substantial adverse impacts or safety hazards on the abutting properties or the surrounding vicinity.

(5) The Abandonment will not cause the public to be materially injured by the proposed abandonment.

(5) The conditions of approval for the requested Abandonment do not conflict with the minimum requirements in Storey County Code Chapters 17.12.090, General Provision – Access and Right-of-Ways, or any other Federal, State, or County regulations.

**B.** **Motion for Denial.** Should a recommended motion be made to deny the Abandonment request, the following Findings with explanation of why should be included in that motion.

(1) Substantial evidence shows that the Abandonment with the purpose, intent, and other specific requirement of Storey County Code Chapter 17.12.090, General Provision, Access and Rights-of-Ways, or any other Federal, State, or County regulations, including NRS 278.480.

(2) The Recommended Conditions of Approval for the Abandonment does not adequately mitigate potential adverse impacts on surrounding uses or protect against potential safety hazards for surrounding uses.

**4. Recommended Conditions of Approval**

All conditions must be met to the satisfaction of each applicable County Department, unless otherwise stated.

**A.** **Approval**. This approval is to abandon the public access easement associated with a portion of undeveloped A Street right-of-way, located approximately 155-feet north of Ophir Grade

right-of-way and approximately 190-feet south of Ridge Street right-of-way. The land associated with the access easement will remain Storey County property, however, the abandonment of the easement will allow for construction of a County-owned building to occur. The area associated with the public access easement abandonment will be consolidated with the Storey County owned parcel. The right-of-way abandonment is located adjacent to 800 South C Street, Virginia City, Storey County, Nevada and borders Assessor's Parcel Number (APN) 001-042-13.

**B.** **Abandonment Area.** The required Record of Survey map shall be in substantial conformance to the proposed request of abandonment of right-of-way described in the staff report.

**C.** **Record of Survey Map.** The Permit Holder shall submit to the Storey County Planning Department a Record of Survey map for review and approval prior to the map being recorded. The map must comply with Nevada Revised Statutes (NRS) and must comply with Federal, State, and County regulations. The map must show all parcel boundaries, consolidated parcel boundaries, easements and areas to be dedicated as easements if applicable, and right-of-ways. Upon acceptance of the map format, and completion of all other conditions of approval, the map may be recorded.

**D.** **Consolidation**. The Parcel Map shall demonstrate that APN 001-042-13, along with the area of abandonment, have been consolidated into one legal lot of record.

**F**. **Duties of the Map Preparer.** The preparer of the proposed map shall meet all requirements pursuant to Nevada Revised Statutes.

**G.** **Null and Void.** The map must be recorded with the Storey County Recorder within 12 months of the Board's approval. If the map is not recorded by that time, this approval will become null and void.

**H.** **Indemnification**. The Property Owner warrants that the future use of land will conform to requirements of Storey County, State of Nevada, and applicable federal regulatory and legal requirements; further, the Property Owners warrant that continued and future use of the land shall so conform.

**5. Public Comment**

As of September 22, 2020, Staff has received no comments from the public.

NV Energy, AT&T, Comstock Cable and Storey County Public Works were all given written notification of the proposed project individually through mail or email. Comments were received from NV Energy and AT&T stating they had no utilities in this location.

**6. Power of the Board and Planning Commission**

At the conclusion of the hearing, the Planning Commission must take such action thereon as it deems warranted under the circumstances and announce and record its action by formal resolution, and such resolution must recite the findings of the Planning Commission upon which it bases its decision. The decision of the Planning Commission in the matter of granting the Approval is advisory only to the Board of County Commissioners and that governing body must consider the

report and recommendation and must make such a decision thereon as it deems warranted.

## 7. Proposed Motions

This Section contains two motions from which to choose. The motion for approval is recommended by Staff in accordance with the findings under Section 3.A of this report. Those findings should be made part of that motion. A motion for denial may be made and that motion should cite one or more of the findings shown in Section 3.B. Other findings of fact determined appropriate by the Planning Commission should be made part of either motion.

### A. Recommended Motion (motion for approval)

In accordance with the recommendation by staff, the Findings under section 3.A of the Staff Report, and in compliance with all Conditions of Approval, I [*Planning Commissioner*], hereby recommend approval of an abandonment to the public access easement associated with a portion of undeveloped A Street right-of-way, located approximately 155-feet north of Ophir Grade right-of-way and approximately 190-feet south of Ridge Street right-of-way. The land associated with the access easement will remain Storey County property, however, the abandonment of the easement will allow for construction of a County-owned building to occur. The area associated with the public access easement abandonment will be consolidated with the Storey County owned parcel. The right-of-way abandonment is located adjacent to 800 South C Street, Virginia City, Storey County, Nevada and borders Assessor's Parcel Number (APN) 001-042-13.

### B. Alternative Motion (motion for denial)

In accordance with the Findings under section 3.B of this report and other Findings against the recommendation for approval with conditions by Staff, I [*Planning Commissioner*], hereby recommend denial of an abandonment to the public access easement associated with a portion of undeveloped A Street right-of-way, located approximately 155-feet north of Ophir Grade right-of-way and approximately 190-feet south of Ridge Street right-of-way. The land associated with the access easement will remain Storey County property, however, the abandonment of the easement will allow for construction of a County-owned building to occur. The area associated with the public access easement abandonment will be consolidated with the Storey County owned parcel. The right-of-way abandonment is located adjacent to 800 South C Street, Virginia City, Storey County, Nevada and borders Assessor's Parcel Number (APN) 001-042-13.

## APPENDIX 1
## NRS 278.480

**NRS 278.480 Vacation or abandonment of street or easement: Procedures, prerequisites and effect; appeal; reservation of certain easements; sale of vacated portion.**

1. Except as otherwise provided in subsections 11 and 12, any abutting owner or local government desiring the vacation or abandonment of any street or easement owned by a city or a county, or any portion thereof, shall file a petition in writing with the planning commission or the governing body having jurisdiction.

2. The governing body may establish by ordinance a procedure by which, after compliance with the requirements for notification of public hearing set forth in this section, a vacation or abandonment of a street or an easement may be approved in conjunction with the approval of a tentative map pursuant to NRS 278.349.

3. A government patent easement which is no longer required for a public purpose may be vacated by:

(a) The governing body; or

(b) The planning commission, hearing examiner or other designee, if authorized to take final action by the governing body,

➥ without conducting a hearing on the vacation if the applicant for the vacation obtains the written consent of each owner of property abutting the proposed vacation and any utility that is affected by the proposed vacation.

4. Except as otherwise provided in subsection 3, if any right-of-way or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall, not less than 10 business days before the public hearing described in subsection 5:

(a) Notify each owner of property abutting the proposed abandonment. Such notice must be provided by mail pursuant to a method that provides confirmation of delivery and does not require the signature of the recipient.

(b) Cause a notice to be published at least once in a newspaper of general circulation in the city or county, setting forth the extent of the proposed abandonment and setting a date for public hearing.

5. Except as otherwise provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

6. In addition to any other applicable requirements set forth in this section, before vacating or abandoning a street, the governing body of the local government having jurisdiction over the street, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall provide each public utility and video service provider serving the affected area with written notice that a petition has been filed requesting the vacation or abandonment of the street. After receiving the written notice, the public utility or video service provider, as applicable, shall respond in writing, indicating either that the public utility or video service provider, as applicable, does not require an easement or that the public utility or video service provider, as applicable, wishes to request the reservation of an easement. If a public utility or video service provider indicates in writing that it wishes to request the reservation of an easement, the governing body of the local government having jurisdiction over the street that is proposed to be vacated or abandoned, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall reserve and convey an easement in favor of the public utility or video service provider, as applicable, and shall ensure that such easement is recorded in the office of the county recorder.

7. The order must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, title to the street or easement reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest. In the event of a partial vacation of a street where the vacated portion is separated from the property from which it was acquired by the unvacated portion of it, the governing body may sell the vacated portion upon such terms and conditions as it deems desirable and in the best interests of the city or county. If the governing body sells the vacated portion, it shall afford the right of first refusal to each abutting property owner as to that part of the vacated portion which abuts his or her property, but no action may be taken by the governing body to force the owner to purchase that portion and that portion may not be sold to any person other than the owner if the sale would result in a complete loss of access to a street from the abutting property.

8. If the street was acquired by dedication from the abutting property owners or their predecessors in interest, no payment is required for title to the proportionate part of the street reverted to each abutting property owner. If the street was not acquired by dedication, the governing body may make its order conditional upon payment by the abutting property owners for their proportionate part of the street of such consideration as the governing body determines to be reasonable. If the governing body determines that the vacation has a public benefit, it may apply the benefit as an offset against a determination of reasonable consideration which did not take into account the public benefit.

9. If an easement for light and air owned by a city or a county is adjacent to a street vacated pursuant to the provisions of this section, the easement is vacated upon the vacation of the street.

10. In any vacation or abandonment of any street owned by a city or a county, or any portion thereof, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may reserve and except therefrom all easements, rights or interests therein which the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, deems desirable for the use of the city or county.

11. The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of an easement for a public utility owned or controlled by the governing body.

12. The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of a street for the purpose of conforming the legal description of real property to a recorded map or survey of the area in which the real property is located. Any such simplified procedure must include, without limitation, the requirements set forth in subsection 6.

13. As used in this section:

(a) "Government patent easement" means an easement for a public purpose owned by the governing body over land which was conveyed by a patent.

(b) "Public utility" has the meaning ascribed to it in NRS 360.815.

(c) "Video service provider" has the meaning ascribed to it in NRS 711.151.

[30:110:1941; 1931 NCL § 5063.29]—(NRS A 1967, 268, 696; 1969, 588; 1973, 1830; 1975, 164; 1977, 1506; 1979, 600; 1981, 165, 580; 1987, 663; 1993, 2580; 1997, 2436; 2001, 1451, 2815, 2822; 2007, 992; 2013, 700)

## APPENDIX 2

## NRS 278.240

**NRS 278.240 Approval required for certain dedications, closures, abandonments, construction or authorizations.** Whenever the governing body of a city, county or region has adopted a master plan, or one or more elements thereof, for the city, county or region, or for a major section or district thereof, no street, square, park, or other public way, ground, or open space may be acquired by dedication or otherwise, except by bequest, and no street or public way may be closed or abandoned, and no public building or structure may be constructed or authorized in the area for which the master plan or one or more elements thereof has been adopted by the governing body unless the dedication, closure, abandonment, construction or authorization is approved in a manner consistent with the requirements of the governing body, board or commission having jurisdiction over such a matter.

[12:110:1941; 1931 NCL § 5063.11]—(NRS A 1997, 2419; 2013, 1508)