

REGIONAL PLANNING COMMISSION MINUTES

The Humboldt County Regional Planning Commission Meeting was held on Thursday, December 12, 2013 at 5:30PM in the County Meeting room of the Humboldt County Courthouse located at 50 West Fifth Street, Winnemucca, Nevada.

COMMISSIONERS PRESENT

Giovette Cassinelli
Ray Olsen
Theresa Mavity
Lewis Trout
Stephen Nye
Vickie Rock

COMMISSIONERS ABSENT

STAFF PRESENT

Betty Lawrence Lenora Turney

LEGAL COUNSEL

Mike MacDonald

PUBLIC PRESENT

John Milton John Krmpotic Pat Morrissey Dan Brooks
Gerald Gulley Cleve Mallory Delores Mallory

I. OPENING

Theresa called the meeting to order at 5:30PM.

Theresa asked if there was anyone who wanted to make public comment. None was offered.

Theresa asked if there were any concerns or corrections to the minutes of November 14, 2013. Lewis offered grammatical corrections and motioned to approve the minutes with the corrections as noted; second by Vickie. Motion passed unanimously.

Theresa asked if there were any requests for postponement of agenda items. Betty indicated the applicant for UH-13-20 asked that this item be postponed until the January 9, 2014 meeting.

Theresa read the following:

II. CONSENT AGENDA/DISCUSSION & ACTION

- A. **PW-13-31** A parcel map application submitted by Desert Mountain Surveying as agent for T.G. Sheppard Family Limited Partnership, Ltd., to parcel property located on Construction Way into 4 parcels; assessor's parcel #015-334-09.

- B. **PW-13-32** A parcel map application submitted by Desert Mountain Surveying as agent for Business Properties Companies, LLC; T.G. Sheppard and M. Elaine Sheppard utilizing merger and re-subdivision to create 4 lots. Subject property is located on Lonnie Lane; assessor's parcel #'s 015-466-01 thru 06.
- C. **PW-13-33** A parcel map application submitted by Desert Mountain Surveying as agent for Business Properties Companies, LLC; T.G. Sheppard and M. Elaine Sheppard utilizing merger and re-subdivision to create 2 lots. Subject property is located on Lonnie Lane; assessor's parcel #'s 015-466-07 thru 09.

Theresa asked if there were any requests for these items to be moved to the Public Hearing portion. Lewis stated he would like item A pulled down to the Public Hearing. Ray motioned to approve items B and C on the consent agenda, second by Lewis. Motion passed unanimously.

III. PUBLIC HEARING/Discussion & Possible Action

- A. **PW-13-31** A parcel map application submitted by Desert Mountain Surveying as agent for T.G. Sheppard Family Limited Partnership, Ltd. to parcel property located on Construction Way into 4 parcels; assessor's parcel #015-334-09.

Theresa read this item. John Milton as agent for the applicant approached the board. Lewis stated it does not incorporate the requested changes and the requested city circulation Master Plan road system that is shown on the enclosures provided by the City Engineer. Lewis asked Mr. Milton if a revised map had been prepared. Mr. Milton stated he has a revised map and just found this out yesterday and showed it to Mr. Sheppard. It was not satisfactory with Mr. Sheppard but, we have come up with an alternative that we would like to present. Mr. Milton showed the board the one large copy and explained the new map. Lewis asked Mr. Milton if he was able to meet with Mr. West to show him the revised map. Mr. Milton stated no, but he would like the board to approve the map conditionally and that Mr. West and the City approve the access for traffic circulation. Lewis asked the District Attorney if that was an acceptable solution. Mike stated that this can be a condition of approval of the final map. Betty stated the City Engineer has to review the final map before it is signed off. Mr. Milton stated Mr. Sheppard was not notified of the City Street Master Plan of July 2012 and, therefore, did not know how this would affect his property. Ray stated in the Staff Report, under staff recommendation, that item #6 covers the condition. Ray read item #6 "Prior to staff signing the final map, the loop road concerns and a westerly stub for the new street will need to be addressed per the comments from Steve West, City Manager/Engineer" Lewis asked that it be changed to read "...resolved in a mutually acceptable manner per comments from Steve West, City Manager/Engineer." Theresa asked if there were any further comments from the board. Seeing none, she asked if there were any comments from the public. Seeing none, Theresa asked for a motion. Lewis motioned to approve PW-13-31 with the additional language added to item #6 under staff recommendation; second by Ray. Motion passed unanimously.

- B. **RW-13-08** A zone change request submitted by Desert Mountain Surveying, as agent for Tony Snyder, to change the zoning on property from R-2 (Multi-Family Residential) to M-1 (Industrial). Subject property is located at 37 Pacific Avenue; assessor's parcel #015-032-09.

Theresa read this item and asked if there were questions or comments from the commission. Seeing none, she asked if there were any public comments. Seeing none, John Milton approached the board as agent for Tony Snyder and stated for the record the City of Winnemucca initiated this request to correct the zoning on this property. Giovette motioned to approve this item; second by Ray. Motion passed unanimously.

- C. **RW-13-07** The continuation of a zone change request submitted by John Krmpotic with KLS Planning and Design, LLC as agent for Patrick and Joyce Morrissey to change the zoning on property from RR-2.5 (Rural Ranchette 2.5 minimum acre lot size) to R-1-9 (Single-Family Residential 9,000 square foot minimum lot size). Subject property is off the new extension of Offenhauser Drive, and south of the end of Stuart Street; assessor's parcel #010-148-04.

Theresa read this item. John Krmpotic, with KLS Planning approached the board and stated Pat Morrissey is also present. Mr. Krmpotic was unable to present a power point presentation due to technical difficulties. He stated they are asking for 2.5 dwellings to the acre, which is under the Master Plan threshold. It is only 60-62% of the Master Plan density that we are requesting. There is a big mix of lot sizes that range from a minimum of 9,000 sq. ft., with the average being closer to 13,000 sq. ft., to hit several different markets. Theresa asked the commission if they had specific comments or concerns from last month. Lewis stated based on his calculation the density the applicant is requesting is 5.04 units per acre and not 2.5 based on the R-1-9 zoning. Lewis stated the property needs to be entitled before there is a specific plan of development. Lewis passed around handouts of the general plan designations for the City of Winnemucca. He stated the city has two medium density residential designations (MDR); one for urban and one for rural. The MDR urban allows 4 units per acre with lot sizes of approximately 10,890 sq. ft. A 9,000 sq. ft. zoning would be smaller and would be inconsistent. In a MDR rural area the density is one unit per acre. Lewis stated there were some proposed corrections to the general plan that appear to not have been adopted by the city. Under the existing policy the R-1-12 is the closest zoning to the MDR urban residential if you look at the pattern of development around the property since its annexation. Lewis provided an annexation map and explained the surrounding zonings on the properties; smaller lots on the north and larger lots to the south and that there should be a transitional type of zoning. Lewis questioned where the division should be. Lewis suggested being parallel with the existing R-1-9 along the prolongation of Offenhauser on both sides. Lewis also suggested a need for a buffer along the south side of the property; with the balance of R-1-12 paralleling the Gabica property and extending up to 15,000 sq. ft. lots; that would be the consistent pattern of the past. Lewis explained if we were to rezone to R-1-9 we

would have a density that is greater than one version of the MDR city designation, where the 9,000 sq. ft. lots exist only along Offenhauser and not further up to the properties in the south. Lewis asked the District Attorney in 1995, according to the city attorney, that the Supreme Court ruled that the Master Plan in Nevada is not controlling. It is a document where we are not to exceed the maximum level of density, but we may approve a lower level of density. Mike believes the Master Plan is controlling; the statutes regarding zoning regulations must be adopted in accordance with the Master Plan; it doesn't necessarily have to be an exact fit, as long as the zoning density is not greater than the Master Plan. The exception being the existing zoning, which is not the case here, differs from the Master Plan, then you look at the existing zoning. Lewis stated that is his understanding as well from the comments made by the City Attorney. Lewis stated if we were to do this blend of zoning; R-1-9 on the north 660 feet; E zoning on approximately the south 480 feet, which would allow for a street in the middle and 15,000 sq. ft. lots on both sides of the street, and R-1-12 in the middle, there would be an average of R-1-12. The trend in the area is for larger lots to the east and south heading toward Water Canyon Road. The comment made in the staff report states a better fit for this area would be at least an R-1-12 zoning designation. Vickie's concern was the recent mine layoff and a decline in school enrollment. She stated you're asking the board to approve a zone change without seeing, and at the same time, approving what you're going to do. Vickie's concern was overdevelopment and explained her experience of the effects of overbuilding in Columbus, Ohio: how she saw property values decline and feels the need to protect the property owners. We recently approved another major development and now they are scaling back. Mike stated it's the property owner who is making this application and is fully informed. Vickie is concerned about the other property owners if this is overbuilt it could destroy their property value. Mr. Krmpotic stated the subdivision map has been carefully engineered and supports the zone change request. Vickie replied she'd not seen the map. Betty stated the sub-division committee reviewed it, but an official application for the sub-division has not been submitted. Theresa stated that has not come before this commission. Lewis stated it is not a matter pending before this commission only the zone change is. Vickie's concern is saying one thing and doing something different. Mr. Krmpotic stated generally when he has done this in other areas the zone change request is concurrent with whatever the project design is going to reflect to justify the policy change. Mr. Krmpotic stated we have a process that we can't process them at the same time. Lewis stated he disagrees with Mr. Krmpotic's comment. The general industry standard, certainly in the southwest, is for people to entitle properties first so that they know what they are permitted to do and then develop their specific plans of development. Only rarely are they brought concurrently and at the risk of the applicant because they may or may not get the zone change they are requesting. Lewis stated Commissioner Rock has raised a very important point and that is if we approve the zoning at R-1-9 and the property is sold to another developer, that developer is not bound to any subdivision maps that have been created. They can come in and do something completely different. Mr. Krmpotic stated he realizes what Mr. Trout is saying. Mr. Morrissey has owned the property for years and has spent thousands of dollars on engineering and it takes the R-1-9 zoning to support the layout. Steven West has looked at it and proposed the conditions to do the collector streets; we have the

infrastructure figured out. The other part is hitting different markets; to be able to offer a variety of lot sizes and prices. Mr. Krmpotic stated everything that Mr. Trout has described they could do with the R-1-9; they could certainly put in buffers if that is appropriate. Stephen stated we need to protect the citizens of a small community and if we allow different size lots, it doesn't protect the value of the property. Stephen felt the R-1-12 zoning was better. Ray asked Mr. Krmpotic how many units they plan to build per acre. Mr. Krmpotic replied 2.5 units per acre totaling 213 units on 83.5 acres. Vickie asked what the building time frame is. Mr. Krmpotic stated it is completely market driven; they have 8 phases laid out possibly more if needed. Vickie stated we approved Frontier and the one on East Winnemucca Blvd. and now we have this application. She questioned who's going to buy these homes. Mr. Krmpotic stated this is just a planning phase and acknowledged there is a fair amount of housing supply on the market, but it's preparing for the next wave. Lewis gave an example of blending several different types of zoning designations. To rezone the property with the R-1-9 on the 10 acres to the north you could have 48 units; 480 feet of E zoning on the south 42 units and rezone the remainder to R-1-12 you could have 165 units for a total of 255 units gross. Lewis stated he didn't see any reason why we couldn't put in place that type of zoning so that someone else can't come in and make it all R-1-9. We are not creating an economic problem in terms of development; we're making some changes on where some lot sizes would be and doesn't feel we're imposing any kind of burden. Theoretically on a gross basis there are more lots than currently proposed. Mr. Krmpotic stated he is 110% confident what Mr. Trout described is not possible. It is confusing physical design with zoning nomenclature. It's three dimensional design and there is no getting around that; which is why we averaged 13,000 sq. ft. lot size to get 2.5 to the acre. The relationship between physical design, laying out a subdivision on a piece of land, versus the zoning designations do not relate. Theresa asked if there was any further comment. Seeing none, Theresa stated she is in agreement with Mr. Olsen that this plan does conform to the Master Plan. There are varied lot sizes and that is the nature of the development that is progressing in this area. Lewis stated he would like to make one more concluding comment before making a motion. He would like to lock in something so that there is not a repeat where we think we will get something in terms of zoning, and what comes later before the board is significantly different. Lewis stated we have to live with what we do zoning wise and if another developer were to buy the property, they may have a completely different concept than what is being suggested. Lewis motioned to recommend disapproval of staff report RW-13-07; second by Vickie; Lewis, Vickie and Stephen voting to recommend disapproval; Theresa, Ray and Giovette voting to recommend approval. Motion failed. New motion; Lewis motioned to recommend approval of RW-13-07; there was no second; Vickie, Lewis and Stephen voting to recommend disapproval; Theresa, Giovette and Ray voting to recommend approval. Motion failed. Theresa stated it will be forwarded to the City Council with no recommendation.

IV. COMMISSION/STAFF/LEGAL COMMENTS/COMMITTEE REPORTS-Discussion & Possible Action

A. Continued review of update to Code of the West.

Theresa read this item. Betty asked if everyone had a chance to look at the revised copy. Everyone did. Theresa thanked Vickie for all her hard work. Theresa asked if anyone had any comment. Seeing none, Theresa stated the next step is to forward this to the City Council and County Commissioners. Lewis wanted to know if Mr. Olsen had any additional comments. Ray stated his concern from last month's meeting has been corrected and thanked Vickie. There were no other additional comments. Ray motioned to recommend forwarding The Code of the West, Humboldt County, Nevada to the City Council and to the County Commissioners for their approval; second by Stephen. Motion passed unanimously.

V. CORRESPONDENCE/BUDGET/PERSONNEL-Discussion & Possible Action

- A. A request from Cleve and Delores Mallory to discuss the zoning designation of their property. Subject property is located on Memory Lane; assessor's parcel #'s 006-21-26 and 27.

Theresa read this item. Cleve and Delores approached the board. Cleve handed out two separate packets of documents pertaining to this asserted rezone of their property to the board. Mr. Mallory corrected the address as 3165 Bruce Drive. Betty clarified it is the property the bar is on. Mr. Mallory said the portion of Memory Lane that is on their property is supposed to be abandoned. Mr. Macdonald clarified we are speaking about the same property; the two parcels are next to one another. Mike stated the Mallorys requested him to look into this matter as well as the planning department to review the files as it relates to their zoning. Mike provided a letter to the Mallory's explaining his findings. Mike stated the Mallorys can indicate what they believe is the case. However, this is not an application for a rezone that this board can consider and more importantly this board is unable to override the zoning ordinances that have been passed by the Humboldt County Commissioners. This board only makes recommendations to the County Commission regarding zoning issues. If the Mallory's are interested in rezoning their property they would have to submit an application; as it now stands the District Attorney's office and the planning department have determined that the Mallory's property is zoned M-3. Theresa asked if the commission understood Mr. Macdonald; that there is no action being taken at this time. Lewis asked the District Attorney that he understood the Mallorys have a residence on this property. Under the M-3 zoning the residence is grandfathered in. Mike stated residences are allowed on M-3. Lewis asked if it were zoned Highway Commercial, the residence would not be permitted. Betty confirmed this. Mr. Mallory said Jim Delaney rezoned this property to Highway Commercial in 1993 and there seems to be a question on the location. Mr. Mallory explained page by page where he believes the location is. Lewis asked Mr. Mallory what the parcel numbers are for his property. Mr. Mallory stated they are 006-621-26 and 006-621-27. Mr. Mallory stated it was parceled out in 2004 and the Mallorys purchased the property in 2006. Lewis asked if he had the legal description of the property. Mr. Mallory did not. Mr. Macdonald stated that determination has been made by his office and the planning department. The zone change the Mallorys are talking about took place in 1993. That application was for approximately 160 acres that included the Mallorys' lots, those lots had not been created yet, and the zone change was denied without prejudice. Later, the Delaney

family applied for another zone change for a strip of land north of the Mallorys' lots, which was approved. In 2004 when the Delaney family submitted a parcel map application for fifteen plus acres of land to be divided into three parcels: two of those parcels to the south are owned by the Mallorys. The Delaneys' application and the planning department's staff report concerning the parcel map application both indicated again it was still zoned M-3. The Delaney's themselves on their parcel map application indicated it was zoned M-3. The action that the County Commission took was for property north of the Mallorys' property. Our determination is, and has been, that the Mallorys' property is zoned M-3 and not Highway Commercial. Lewis asked what is the legal description on the action taken by the County Commission on November 2, 1993. Mr. Macdonald stated that was for the property to the north, not to this property. Lewis stated the legal description is for a different property. Mr. Macdonald stated where the zone change was approved was for property north of the Mallory property. Mr. Mallory stated that was not correct. Mr. Macdonald commented he is not sure what he wants the Planning Commission to do. The Planning Commission cannot take action. Mr. Mallory stated he wants the Commission to recognize that his property was rezoned Highway Commercial. There was discussion of the legal description. There was no legal description in the application. There was more discussion on the zoning. Mr. Macdonald suggested they could submit a rezone application. Mrs. Mallory stated why should we rezone it when it's already zoned commercial on the Master Plan. Lewis stated the Master Plan does not zone property; that's a misunderstanding. The Master Plan shows where future commercial property may or may not be. Vickie stated it's what we would like to see in the future, but not necessarily the way it is. Mr. Mallory stated he understood, but neither the District Attorney nor the planning department has shown any evidence that this rezone was not on their property and it is just their opinion. Lewis stated the District Attorney's opinion after reviewing extensive files is an informed opinion. Lewis suggested the remedy would be for the Mallorys to discuss this with an attorney. Mr. Mallory wanted to see what proof the District Attorney based his decision on. Mr. Macdonald stated that information has been provided to them on several occasions by the planning department. Mike stated this board cannot take action. Mr. Mallory stated he does not want action; just to take a look at the documents. Mike stated we have looked at this. Lewis stated that on November 2, 1993 the County Commission took action on an item; they approved something. The District Attorney is saying the property that was approved is a different property but, you feel it is yours. Mr. Mallory stated you can read the map number. Lewis stated the map number is for a larger parcel; this is for a portion of a parcel. Mike said the application didn't specify an exact legal description rather: it talks about the property being on the north end of that parcel. Mr. Delaney, who was the applicant on the rezone noted that the property the Mallorys eventually owned was zoned M-3. Mike stated the documents the Mallorys have requested time and time again have been provided by the planning department and is the source of the documentation here. The planning department's conclusion, as well as Mr. Macdonald's, is that the property was never rezoned to Highway Commercial: it has always been M-3 (Open Land Use). If the Mallorys would like, they can submit a rezone application. Beyond that, the Planning Commission cannot take action to change their zoning. Mr. Mallory insisted it has already been rezoned and the District Attorney has shown him nothing on what he thinks has been rezoned. It is just what

he says and what the board is going by. Stephen stated it is breaking down into an argument and they should seek remedy elsewhere. Mr. Mallory stated everything is so messed up and the board will not look at their evidence or consider anything they have said. Theresa stated it's not about considering anything they're saying now; it's that there is no action before the board. Mr. Mallory said it was rezoned at one time Highway Commercial and now it has disappeared. Mr. Delaney sold him commercial property and now Mr. Mallory wants to resell and it needs to be commercial property. Lewis stated if the Mallorys apply for a rezone then that is an action we can consider. Mr. Mallory thanked the board members for their time.


B. Resignation from RPC received by Pam Wickkiser.

Theresa stated we have received a letter of resignation from Pam Wickkiser. Betty stated the City will post the opening. Lewis asked if the board will give Pam a certificate or plaque for serving on the board. Betty stated the Mayor has already sent Pam a letter thanking her for her service.

VI. PUBLIC COMMENTARY

Theresa asked if the public had any comments. None were offered.

Theresa adjourned the meeting at 7:00 PM until 5:30 PM January 9, 2014.



Theresa Mavity, Chairperson